

[109H5965]

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(Original Signature of Member)

110TH CONGRESS
1ST SESSION

H. R. _____

To strengthen national security and promote energy independence by reducing the Nation's reliance on foreign oil, improving vehicle technology and efficiency, increasing the distribution of alternative fuels, bolstering rail infrastructure, and expanding access to public transit.

IN THE HOUSE OF REPRESENTATIVES

Mr. HOYER introduced the following bill; which was referred to the Committee
on _____

A BILL

To strengthen national security and promote energy independence by reducing the Nation's reliance on foreign oil, improving vehicle technology and efficiency, increasing the distribution of alternative fuels, bolstering rail infrastructure, and expanding access to public transit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Program for Real Energy Security Act” or the
6 “PROGRESS Act”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

- Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—NATIONAL COMMISSION ON ENERGY SECURITY AND
TRANSITION TO NEW FUELS

- Sec. 101. Establishment.
Sec. 102. Duties of Commission.
Sec. 103. Membership.
Sec. 104. Initial meeting.
Sec. 105. Administrative assistance.
Sec. 106. Powers of Commission.
Sec. 107. Reports.
Sec. 108. Action on report recommendations.
Sec. 109. Termination.

TITLE II—NEW MANHATTAN CENTER FOR HIGH EFFICIENCY
VEHICLES

- Sec. 201. Findings.
Sec. 202. Definitions.
Sec. 203. New Manhattan Center for High Efficiency Vehicles.
Sec. 204. Advisory council.
Sec. 205. Responsibilities.
Sec. 206. Export of high-efficiency vehicle manufacturing.
Sec. 207. Protection of information.
Sec. 208. Authorization on appropriations.
Sec. 209. Advanced battery loan guarantee program.
Sec. 210. Domestic manufacturing conversion grant program.

TITLE III—BIOFUELS INFRASTRUCTURE DEVELOPMENT

- Sec. 301. Biofuels infrastructure development.

TITLE IV—GOVERNMENT USE AND DIVERSITY OF SUPPLY

- Sec. 401. Renewable fuel regulations.
Sec. 402. Grants for cellulosic ethanol production.
Sec. 403. Standard specifications for biodiesel.
Sec. 404. Requirement for greater use of alternative fuels in Federal fleet.
Sec. 405. Requirement for Inspector General investigations relating to alternative fuel use and supply in Federal agencies and regulations.
Sec. 406. Report on vehicles and infrastructure for alternative fuel use.
Sec. 407. Funds set aside for alternative fuel infrastructure.
Sec. 408. Authority for Department of Defense to enter into long-term contracts to procure biobased fuel and unconventional fuel.
Sec. 409. Federal support for plug-in hybrid electric vehicles.
Sec. 410. Congressional alternative fuel use in vehicles.

TITLE V—TRANSIT PROMOTION AND RAIL INFRASTRUCTURE
DEVELOPMENT

Subtitle A—Transit

3

- Sec. 501. Increase and expansion of employer-provided mass transit fringe benefits.
- Sec. 502. Grants to improve public transportation services.
- Sec. 503. Study of fuel savings from intelligent transportation systems.

Subtitle B—Secure Access for Commuter Rail

- Sec. 511. Short title.
- Sec. 512. Findings.
- Sec. 513. Rail transit access.
- Sec. 514. Rail transportation policy.

Subtitle C—Intercity Passenger Rail and Rail Bond Program

- Sec. 521. Capital assistance for intercity passenger rail service; State rail plans.
- Sec. 522. State rail plans.
- Sec. 523. Rail cooperative research program.
- Sec. 524. High-speed intercity rail facility bonds.
- Sec. 525. Tax credit to holders of qualified high-speed rail infrastructure bonds.

Subtitle D—Energy Supply and Freight Rail

- Sec. 531. Short title.
- Sec. 532. Capital grants for railroad track.

Subtitle E—Rail Reliability

- Sec. 541. Reliability of railroad transportation of energy supplies.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) The United States dependence on foreign
4 petroleum poses a serious risk to our national secu-
5 rity and our economic well-being. The United States
6 must immediately develop a proactive energy strat-
7 egy that includes the promotion of energy efficiency
8 and the investment in alternative and new energy
9 technologies.

10 (2) America should achieve energy independ-
11 ence by reducing its reliance on oil from the Middle
12 East and other unstable regions of the world by de-
13 veloping emerging technologies that work in synergy

1 with the existing energy infrastructure. A sustained
2 investment in research and development is crucial to
3 creating cutting-edge technologies that allow us to
4 develop clean, sustainable energy alternatives and
5 capitalize on America's vast renewable natural re-
6 sources.

7 (3) The Federal Government should lead the
8 Nation in an effort to substantially reduce the use
9 of petroleum based fuels by rapidly expanding pro-
10 duction and distribution of synthetic and biobased
11 fuels, such as ethanol derived from cellulosic sources,
12 and by deploying new engine technologies for fuel-
13 flexible, hybrid, plug-in hybrid, and biodiesel vehi-
14 cles.

15 (4) The Nation will be more secure by making
16 a concerted effort to improve the diversity and reli-
17 ability of the Nation's energy resources and trans-
18 portation fuels. We must make greater investments
19 in renewable energy, alternative fuels such as bio-
20 mass, and efficiency improvements to answer our
21 growing demand for energy.

22 (5) The Federal Government should undertake
23 a complete review of regulations that may affect
24 supply and bottlenecks that create regional emer-
25 gencies that threaten the well-being of our economy

1 and the health and safety of our citizens. We must
2 make every effort to use all of our energy sources,
3 making each a cleaner, safer contributor to the Na-
4 tion's energy resources.

5 (6) Despite the expenditure of billions of dollars
6 on homeland security since 9/11, the American peo-
7 ple are still vulnerable to attack by terrorists at
8 home. Recent natural disasters have also under-
9 scored the vulnerability and critical importance of
10 energy supply to the Nation's economic vitality. Our
11 energy facilities, transportation systems, and critical
12 infrastructure must be adequately secured.

13 (7) Not only must our energy infrastructure be
14 secured, but Americans must feel safe in utilizing
15 mass transit systems. Transit provides an alter-
16 native form of commuting, reduces the use of oil and
17 gasoline, and plays a key role in moving Americans
18 and their families in times of emergencies as well.
19 Increasing security for mass transit through addi-
20 tional funding for rail, bus, and subway security is
21 part of the Nation's energy security.

1 **TITLE I—NATIONAL COMMIS-**
2 **SION ON ENERGY SECURITY**
3 **AND TRANSITION TO NEW**
4 **FUELS**

5 **SEC. 101. ESTABLISHMENT.**

6 There is established a commission to be known as the
7 “National Commission on Energy Security and Transition
8 to New Fuels” (in this title referred to as the “Commis-
9 sion”).

10 **SEC. 102. DUTIES OF COMMISSION.**

11 The Commission shall make recommendations to the
12 Congress and the President for preserving the national en-
13 ergy security in the event of a terrorist attack or natural
14 disaster, and for reducing United States dependence on
15 foreign oil according to a schedule for national energy
16 independence over the next 5, 10, 15, and 20 years. The
17 Commission shall focus on regional approaches to achiev-
18 ing such goals, taking into account regional differences in
19 energy supply and demand, and shall—

20 (1) address fuel supply and infrastructure needs
21 to support the development of wide-scale use of al-
22 ternative fueled vehicles, including flexible-fuel vehi-
23 cles, electric hybrid vehicles, advanced diesel engines,
24 and hydrogen fueled vehicles, for passenger cars,
25 commercial fleets, and industrial vehicles;

1 (2) identify vulnerabilities in energy infrastruc-
2 ture, such as overreliance on refining capacity con-
3 centrated in areas susceptible to hurricane damage,
4 and recommend actions to remedy or mitigate such
5 vulnerabilities;

6 (3) propose legislative actions to—

7 (A) promote efficiency and biomass and
8 other alternative resource use, including the de-
9 velopment of biofuels, battery, and composite
10 material technologies; and

11 (B) pursue near-term options to reduce
12 transportation fuel demand, such as expanded
13 use of public transit; and

14 (4) propose Federal, State, and local fiscal and
15 regulatory changes to accomplish the purposes de-
16 scribed in this subsection, and develop uniform codes
17 and other tools for use by governments to accom-
18 plish those purposes.

19 **SEC. 103. MEMBERSHIP.**

20 (a) NUMBER AND APPOINTMENT.—

21 (1) IN GENERAL.—The Commission shall con-
22 sist of—

23 (A) 6 members appointed by the Speaker
24 of the House of Representatives, including—

1 (i) 1 appointed in consultation with
2 the chairman of the Committee on Energy
3 and Commerce;

4 (ii) 1 appointed in consultation with
5 the chairman of the Committee on Trans-
6 portation and Infrastructure;

7 (iii) 1 appointed in consultation with
8 the chairman of the Committee on Agri-
9 culture;

10 (iv) 1 appointed in consultation with
11 the chairman of the Committee on Over-
12 sight and Government Reform;

13 (v) 1 appointed in consultation with
14 the chairman of the Committee on Science
15 and Technology; and

16 (vi) 1 appointed in consultation with
17 the chairman of the Committee on Armed
18 Services;

19 (B) 6 members appointed by the minority
20 leader of the House of Representatives, includ-
21 ing—

22 (i) 1 appointed in consultation with
23 the ranking minority member of the Com-
24 mittee on Energy and Commerce;

1 (ii) 1 appointed in consultation with
2 the ranking minority member of the Com-
3 mittee on Transportation and Infrastruc-
4 ture;

5 (iii) 1 appointed in consultation with
6 the ranking minority member of the Com-
7 mittee on Agriculture;

8 (iv) 1 appointed in consultation with
9 the ranking minority member of the Com-
10 mittee on Oversight and Government Re-
11 form;

12 (v) 1 appointed in consultation with
13 the ranking minority member of the Com-
14 mittee on Science and Technology; and

15 (vi) 1 appointed in consultation with
16 the chairman of the Committee on Armed
17 Services;

18 (C) 6 members appointed by the majority
19 leader of the Senate, including—

20 (i) 1 appointed in consultation with
21 the chairman of the Committee on Com-
22 merce, Science, and Transportation;

23 (ii) 1 appointed in consultation with
24 the chairman of the Committee on Energy
25 and Natural Resources;

1 (iii) 1 appointed in consultation with
2 the chairman of the Committee on Home-
3 land Security and Governmental Affairs;
4 and

5 (iv) 1 appointed in consultation with
6 the chairman of the Committee on Armed
7 Services;

8 (D) 6 members appointed by the minority
9 leader of the Senate, including—

10 (i) 1 appointed in consultation with
11 the ranking minority member of the Com-
12 mittee on Commerce, Science, and Trans-
13 portation;

14 (ii) 1 appointed in consultation with
15 the ranking minority member of the Com-
16 mittee on Energy and Natural Resources;

17 (iii) 1 appointed in consultation with
18 the ranking minority member of the Com-
19 mittee on Homeland Security and Govern-
20 mental Affairs; and

21 (iv) 1 appointed in consultation with
22 the chairman of the Committee on Armed
23 Services; and

24 (E) 12 members appointed by the Presi-
25 dent, including—

1 (i) 1 appointed in consultation with
2 the Secretary of Energy;

3 (ii) 1 appointed in consultation with
4 the Secretary of Transportation;

5 (iii) 1 appointed in consultation with
6 the Secretary of Commerce;

7 (iv) 1 appointed in consultation with
8 the Secretary of Agriculture; and

9 (v) 1 appointed in consultation with
10 the Administrator of the Environmental
11 Protection Agency.

12 (2) APPOINTMENT PRINCIPLES.—

13 (A) CHAIRMAN.—The President shall des-
14 ignate 1 member appointed under paragraph
15 (1)(E) to be Chairman of the Commission.

16 (B) CONSULTATION.—At least 3 of the ap-
17 pointments by the President shall be made in
18 consultation with the bipartisan national asso-
19 ciations representing elected State and local
20 governmental officials.

21 (C) LIMITATION ON PARTY MEMBER-
22 SHIP.—Not more than 3 of the members ap-
23 pointed by the President under paragraph
24 (1)(E), other than members appointed under
25 clauses (i) through (v) of that subparagraph,

1 shall be members of the same political party as
2 the President.

3 (D) BALANCE.—Each person appointing
4 members of the Commission under paragraph
5 (1) shall seek to achieve a balance of Commis-
6 sion members among representatives of appro-
7 priate Federal, State, and local government
8 agencies, industry, academia, and nonprofit
9 stakeholder organizations, and among diverse
10 geographical areas.

11 (b) VACANCIES.—Any vacancy occurring before the
12 termination of the Commission shall be filled in the same
13 manner as the original appointment.

14 (c) COMPENSATION.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), members of the Commission shall serve
17 without pay.

18 (2) TRAVEL EXPENSES.—Each member shall
19 receive travel expenses, including per diem in lieu of
20 subsistence, in accordance with applicable provisions
21 under chapter I of chapter 57 of title 5, United
22 States Code.

23 (d) RECOMMENDATIONS.—The Commission may only
24 make recommendations if 75 percent or more of its mem-
25 bership approve those recommendations.

1 **SEC. 104. INITIAL MEETING.**

2 The Commission shall hold its initial meeting not
3 later than 60 days after the date of enactment of this Act.

4 **SEC. 105. ADMINISTRATIVE ASSISTANCE.**

5 (a) IN GENERAL.—The Secretary of Energy shall
6 provide to the Commission any administrative assistance
7 necessary for the Commission to carry out its duties under
8 this title.

9 (b) EXPERTS AND CONSULTANTS.—The Commission
10 may procure temporary and intermittent services under
11 section 3109(b) of title 5, United States Code.

12 (c) STAFF OF FEDERAL AGENCIES.—Upon request
13 of the Commission, the head of any Federal department
14 or agency may detail, on a reimbursable basis, any of the
15 personnel of that department or agency to the Commission
16 to assist it in carrying out its duties under this title.

17 **SEC. 106. POWERS OF COMMISSION.**

18 (a) HEARINGS AND SESSIONS.—The Commission
19 may, for the purpose of carrying out this title, hold hear-
20 ings, sit and act at times and places, take testimony, and
21 receive evidence as the Commission considers appropriate.

22 (b) POWERS OF MEMBERS AND AGENTS.—Any mem-
23 ber or agent of the Commission may, if authorized by the
24 Commission, take any action which the Commission is au-
25 thorized to take by this section.

1 (c) OBTAINING OFFICIAL DATA.—The Commission
2 may secure directly from any department or agency of the
3 United States information necessary to enable it to carry
4 out this title. Upon request of the Chairperson of the Com-
5 mission, the head of that department or agency shall fur-
6 nish that information to the Commission.

7 (d) MAILS.—The Commission may use the United
8 States mails in the same manner and under the same con-
9 ditions as other departments and agencies of the United
10 States.

11 (e) SUBPOENA POWER.—

12 (1) IN GENERAL.—The Commission may issue
13 subpoenas requiring the attendance and testimony of
14 witnesses and the production of any evidence relat-
15 ing to any matter which the Commission is empow-
16 ered to investigate by this title. The attendance of
17 witnesses and the production of evidence may be re-
18 quired from any place within the United States at
19 any designated place of hearing within the United
20 States.

21 (2) FAILURE TO OBEY A SUBPOENA.—If a per-
22 son refuses to obey a subpoena issued under para-
23 graph (1), the Commission may apply to a United
24 States district court for an order requiring that per-
25 son to appear before the Commission to give testi-

1 mony, produce evidence, or both, relating to the
2 matter under investigation. The application may be
3 made within the judicial district where the hearing
4 is conducted or where that person is found, resides,
5 or transacts business. Any failure to obey the order
6 of the court may be punished by the court as civil
7 contempt.

8 (3) SERVICE OF SUBPOENAS.—The subpoenas
9 of the Commission shall be served in the manner
10 provided for subpoenas issued by a United States
11 district court under the Federal Rules of Civil Pro-
12 cedure for the United States district courts.

13 (4) SERVICE OF PROCESS.—All process of any
14 court to which application is made under paragraph
15 (2) may be served in the judicial district in which
16 the person required to be served resides or may be
17 found.

18 **SEC. 107. REPORTS.**

19 (a) INITIAL REPORT.—Not later than 3 months after
20 the first meeting of the Commission, the Commission shall
21 transmit to the President and the Congress and initial re-
22 port containing such recommendations as the Commission
23 has been able to prepare at that time.

24 (b) FINAL REPORT.—Not later than 6 months after
25 transmittal of the report under subsection (a), the Com-

1 mission shall transmit a final report to the President and
2 the Congress. The final report shall contain a detailed
3 statement of the findings and conclusions of the Commis-
4 sion, together with its recommendations.

5 **SEC. 108. ACTION ON REPORT RECOMMENDATIONS.**

6 (a) **PRESIDENTIAL RESPONSE.**—Not later than 30
7 days after receiving a report from the Commission under
8 section 107(a) or (b), the President shall transmit to Con-
9 gress a response consisting of either approval or dis-
10 approval of each of the recommendations contained in the
11 report from the Commission. Such response shall include
12 an explanation for the disapproval of any such rec-
13 ommendation.

14 (b) **IMPLEMENTATION.**—The appropriate Federal of-
15 ficials shall, unless a joint resolution described in sub-
16 section (c) is enacted pursuant to this section, implement
17 all recommendations approved by the President under sub-
18 section (a).

19 (c) **TERMS OF THE RESOLUTION.**—For purposes of
20 subsection (b), the term “joint resolution” means only a
21 joint resolution which is introduced within the 10-day pe-
22 riod beginning on the date on which the President trans-
23 mits the response to the Congress under subsection (a),
24 and—

25 (1) which does not have a preamble;

1 (2) the matter after the resolving clause of
2 which is as follows “That Congress disapproves the
3 recommendations of the National Commission on
4 Energy Security and Transition to New Fuels as
5 submitted by the President on _____”, the
6 blank space being filled in with the appropriate date;
7 and

8 (3) the title of which is as follows: “Joint reso-
9 lution disapproving the recommendations of the Na-
10 tional Commission on Energy Security and Transi-
11 tion to New Fuels”.

12 (d) REFERRAL.—A resolution described in subsection
13 (c) that is introduced in the House of Representatives
14 shall be referred to the appropriate committees of the
15 House of Representatives. A resolution described in sub-
16 section (c) introduced in the Senate shall be referred to
17 the appropriate committees of the Senate.

18 (e) DISCHARGE.—If the committee to which a resolu-
19 tion described in subsection (c) is referred has not re-
20 ported such resolution (or an identical resolution) by the
21 end of the 20-day period beginning on the date on which
22 the President transmits the response to the Congress
23 under subsection (a), such committee shall be, at the end
24 of such period, discharged from further consideration of

1 such resolution, and such resolution shall be placed on the
2 appropriate calender of the House involved.

3 (f) CONSIDERATION.—(1) On or after the third day
4 after the date on which the committee to which such a
5 resolution is referred has reported, or has been discharged
6 (under subsection (e)) from further consideration of, such
7 a resolution, it is in order (even though a previous motion
8 to the same effect has been disagreed to) for any Member
9 of the respective House to move to proceed to the consider-
10 ation of the resolution. A Member may make the motion
11 only on the day after the calender day on which the Mem-
12 ber announces to the House concerned the Member's in-
13 tention to make the motion, except that, in the case of
14 the House of Representatives, the motion may be made
15 without such prior announcement if the motion is made
16 by direction of the committee to which the resolution was
17 referred. All points of order against the resolution (and
18 against consideration of the resolution) are waived. The
19 motion is highly privileged in the House of Representatives
20 and is privileged in the Senate and is not debatable. The
21 motion is not subject to amendment, or to a motion to
22 postpone, or to a motion to proceed to the consideration
23 of other business. A motion to reconsider the vote by
24 which the motion is agreed to or disagreed to shall not
25 be in order. If a motion to proceed to the consideration

1 of the resolution is agreed to, the respective House shall
2 immediately proceed to consideration of the joint resolu-
3 tion without intervening motion, order, or other business,
4 and the resolution shall remain the unfinished business of
5 the respective House until disposed of.

6 (2) Debate on the resolution, and on all debatable
7 motions and appeals in connection therewith, shall be lim-
8 ited to not more than 2 hours, which shall be divided
9 equally between those favoring and those opposing the res-
10 olution. An amendment to the resolution is not in order.
11 A motion to postpone, or a motion to proceed to the con-
12 sideration of other business, or a motion to recommit the
13 resolution is not in order. A motion to reconsider the vote
14 by which the resolution is agreed to or disagreed to is not
15 in order.

16 (3) Immediately following the conclusion of the de-
17 bate on a resolution described in subsection (c) and a sin-
18 gle quorum call at the conclusion of the debate if re-
19 quested in accordance with the rules of the appropriate
20 House, the vote on final passage of the resolution shall
21 occur.

22 (4) Appeals from the decisions of the Chair relating
23 to the application of the rules of the Senate or the House
24 of Representatives, as the case may be, to the procedure

1 relating to a resolution described in subsection (c) shall
2 be decided without debate.

3 (g) CONSIDERATION BY OTHER HOUSE.—(1) If, be-
4 fore the passage by one House of a resolution of that
5 House described in subsection (c), that House receives
6 from the other House a resolution described in subsection
7 (c), then the following procedures shall apply:

8 (A) The resolution of the other House shall not
9 be referred to a committee and may not be consid-
10 ered in the House receiving it except in the case of
11 final passage as provided in subparagraph (B)(ii).

12 (B) With respect to a resolution described in
13 subsection (c) of the House receiving the resolu-
14 tion—

15 (i) the procedure in that House shall be
16 the same as if no resolution had been received
17 from the other House; but

18 (ii) the vote on final passage shall be on
19 the resolution of the other House.

20 (2) Upon disposition of the resolution received from
21 the other House, it shall no longer be in order to consider
22 the resolution that originated in the receiving House.

23 (h) RULES OF THE SENATE AND HOUSE.—This sec-
24 tion is enacted by Congress—

1 (1) as an exercise of the rulemaking power of
2 the Senate and House of Representatives, respec-
3 tively, and as such it is deemed a part of the rules
4 of each House, respectively, but applicable only with
5 respect to the procedure to be followed in that
6 House in the case of a resolution described in sub-
7 section (c), and it supersedes other rules only to the
8 extent that it is inconsistent with such rules; and

9 (2) with full recognition of the constitutional
10 right of either House to change the rules (so far as
11 relating to the procedure of that House) at any time,
12 in the same manner, and to the same extent as in
13 the case of any other rule of that House.

14 **SEC. 109. TERMINATION.**

15 The Commission shall terminate 60 days after trans-
16 mitting its final report pursuant to section 107(b).

17 **TITLE II—NEW MANHATTAN**
18 **CENTER FOR HIGH EFFI-**
19 **CIENCY VEHICLES**

20 **SEC. 201. FINDINGS.**

21 The Congress finds that—

22 (1) private, academic, and government research
23 and development resources need to be focused and
24 coordinated to accomplish the rapid commercializa-

1 tion and deployment of technologies and resources
2 needed to achieve energy independence;

3 (2) a project similar to the Manhattan Project
4 is needed to bring national attention to the need for
5 energy independence and to move the United States
6 beyond its reliance on oil and gasoline;

7 (3) an independent entity is needed to identify
8 the areas where scientific breakthroughs and govern-
9 ment investment are best focused, in coordination
10 with private and academic efforts, to encourage the
11 commercial development of viable vehicle and fuel
12 technologies in areas such as efficiency, biomass,
13 and hydrogen that could play a role in reducing de-
14 mand for oil and meeting growing domestic eco-
15 nomic needs for fuel;

16 (4) such an entity could encourage the develop-
17 ment of those technologies, help break through pri-
18 vate sector risk barriers to their development, and
19 advise Congress and the President on policies needed
20 to foster their use; and

21 (5) such an effort would improve the Nation's
22 energy and national security by lowering demand for
23 petroleum, increasing domestic fuel supplies, cre-
24 ating jobs, and improving the environment.

1 **SEC. 202. DEFINITIONS.**

2 In this title—

3 (1) **ADVISORY COUNCIL.**—The term “Advisory
4 Council” means the Advisory Council established
5 under section 204.

6 (2) **CENTER.**—The term “Center” means the
7 New Manhattan Center for High Efficiency Vehicles
8 established under section 203(c).

9 (3) **RESEARCH.**—The term “research” includes
10 research on the technologies, materials, and manu-
11 facturing processes required for high efficiency vehi-
12 cles.

13 **SEC. 203. NEW MANHATTAN CENTER FOR HIGH EFFI-**
14 **CIENCY VEHICLES.**

15 (a) **SUMMIT.**—Not later than 60 days after the date
16 of enactment of this Act, the President shall convene a
17 summit of the principal advisors and directors of all pro-
18 grams in the Federal Government related to the develop-
19 ment of vehicle (or related and component parts) tech-
20 nologies and alternative fuels, including ethanol and
21 biofuels, electric drive, and hydrogen. Such summit shall
22 include leading researchers at the Federal laboratories and
23 representatives of private sector partners, and affiliated
24 labor unions, engaged in the production and manufac-
25 turing of these vehicle and fuel technologies. The summit
26 shall be for the purpose of—

1 (1) reviewing the progress and promise for each
2 of these technologies toward increasing fuel econ-
3 omy, the interrelationship of these technologies to
4 each other, and additional funding resources needed
5 to accelerate the progress of these programs toward
6 improving efficiency and economy dramatically in
7 the next decade, including review of technology de-
8 veloped and lessons learned from the Federal Gov-
9 ernment's initiative known as the Partnership for a
10 New Generation of Vehicles; and

11 (2) making recommendations as to the organi-
12 zation and structure of the Center described in this
13 section.

14 (b) PROGRAM.—The Secretary of Energy, in con-
15 sultation with the Secretary of Defense, the Secretary of
16 Transportation, and the Administrator of the Environ-
17 mental Protection Agency, shall carry out a program con-
18 sisting of a collaborative effort with industry, government,
19 and academia to support research, development, dem-
20 onstration, and commercial application activities related to
21 high efficiency vehicles. Such program shall include exam-
22 ination of motors, clutches, sensors, controllers, cooling
23 systems, variable combustion engine technologies, flexible
24 fueled and dual fuel fueling systems, hybrid electric flexi-

1 ble fuel vehicles, electric drive accessory components, and
2 advanced batteries in an effort to—

3 (1) reduce production costs to the lowest pos-
4 sible level, with special emphasis on identifying elec-
5 tric drive components and systems that can be ad-
6 vanced through research and development toward
7 commercialization;

8 (2) increase fuel economy; and

9 (3) coordinate related Federal research, devel-
10 opment, and commercialization programs in accord-
11 ance with the recommendations resulting from the
12 summit convened under subsection (a).

13 (c) GRANTS.—Such program shall consist of grants
14 to—

15 (1) the Center, made in accordance with the
16 memorandum of understanding entered into under
17 subsection (e);

18 (2) researchers, including Center participants;

19 (3) small businesses;

20 (4) National Laboratories; and

21 (5) institutions of higher education.

22 (d) CENTER.—Not later than 90 days after the date
23 of enactment of this Act, the Secretary of Energy shall
24 competitively select a consortium to serve as the New
25 Manhattan Center for High Efficiency Vehicles, which

1 shall consist of participants who are private, for-profit
2 United States firms, open to large and small businesses,
3 that, as a group, are broadly representative of United
4 States high efficiency vehicle research, development, infra-
5 structure, and manufacturing expertise as a whole.

6 (e) MEMORANDUM OF UNDERSTANDING.—The Sec-
7 retary of Energy shall enter into a memorandum of under-
8 standing with the Center for the purposes of this title. The
9 memorandum of understanding shall require the following:

10 (1) That the Center shall have—

11 (A) a charter agreed to by all representa-
12 tives of the automotive industry that are par-
13 ticipating members of the Center; and

14 (B) an annual operating plan that is devel-
15 oped in the consultation with the Secretary of
16 Energy and the Advisory Council.

17 (2) That the total amount of funds made avail-
18 able to the Center by Federal, State, and local gov-
19 ernment agencies for any fiscal year for the support
20 of the research and development activities of the
21 Center under this section may not exceed 50 percent
22 of the total cost of such activities.

23 (3) That the Center, in conducting research
24 and development activities pursuant to the memo-
25 randum of understanding, cooperate with and draw

1 on the expertise of the National Laboratories of the
2 Department of Energy and of colleges and univer-
3 sities in the United States in the field of automotive
4 manufacturing technology.

5 (4) That an independent, commercial auditor be
6 retained—

7 (A) to determine the extent to which the
8 funds made available to the Center by the
9 United States for the research and development
10 activities of the Center have been expended in
11 a manner that is consistent with the purposes
12 of this title, the charter of the Center, and the
13 annual operating plan of the Center; and

14 (B) to submit to the Secretary of Energy,
15 the Center, and the Comptroller General of the
16 United States an annual report containing the
17 findings and determinations of such auditor.

18 (5) That the Center take all steps necessary to
19 maximize the expeditious and timely transfer of
20 technology developed and owned by the Center to the
21 participants in the Center in accordance with the
22 agreement between the Center and those partici-
23 pants and for the purpose of improving the high effi-
24 ciency vehicle manufacturing productivity of United
25 States automotive firms.

1 (f) COST SHARING.—In carrying out this section, the
2 Secretary of Energy shall require cost sharing in accord-
3 ance with section 988 of the Energy Policy Act of 2005
4 (42 U.S.C. 16352).

5 (g) RIGHTS TO INTELLECTUAL PROPERTY.—The
6 Secretary of Energy may require (in accordance with sec-
7 tion 202(a)(ii) of title 35, United States Code, section 152
8 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and
9 section 9 of the Federal Nonnuclear Energy Research and
10 Development Act of 1974 (42 U.S.C. 5908)) that for any
11 new invention developed under this title—

12 (1) the Center participants who are active par-
13 ticipants in research, development, and demonstra-
14 tion activities related to the high efficiency vehicle
15 technologies that are covered by this section shall be
16 granted the first option to negotiate with the inven-
17 tion owner, at least in the field of high efficiency ve-
18 hicles, nonexclusive licenses and royalties on terms
19 that are reasonable under the circumstances;

20 (2) for 1 year after a United States patent is
21 issued for the invention—

22 (A) the patent holder shall not negotiate
23 any license or royalty with any entity that is
24 not a participant in the Center; and

1 (B) the patent holder shall negotiate non-
2 exclusive licenses and royalties in good faith
3 with any interested participant in the Center;
4 and

5 (3) such other terms are applied as the Sec-
6 retary determines are required to promote acceler-
7 ated commercialization of inventions made under
8 this section.

9 (h) NATIONAL ACADEMY REVIEW.—The Secretary of
10 Energy shall enter into an arrangement with the National
11 Academy of Sciences to conduct periodic reviews of the
12 program under this section.

13 **SEC. 204. ADVISORY COUNCIL.**

14 (a) ESTABLISHMENT.—There is established the Advi-
15 sory Council on Federal Participation in the New Manhat-
16 tan Center for High Efficiency Vehicles.

17 (b) FUNCTIONS.—(1) The Advisory Council shall ad-
18 vise the Center and the Secretary of Energy on appro-
19 priate technology goals for the research and development
20 activities of the Center, and shall develop a plan to achieve
21 those goals. The plan shall provide for the development
22 of high-quality, high-yield high efficiency vehicle manufac-
23 turing technologies that meet the national energy security
24 and commercial needs of the United States.

25 (2) The Advisory Council shall—

1 (A) conduct an annual review of the activities
2 of the Center for the purpose of determining the ex-
3 tent of the progress made by the Center in carrying
4 out the plan referred to in paragraph (1); and

5 (B) on the basis of its determinations under
6 subparagraph (A), submit to the Center any rec-
7 ommendations for modification of the plan or the
8 technological goals in the plan considered appro-
9 priate by the Advisory Council.

10 (3) The Advisory Council shall review the research
11 activities of the Center and shall submit to the Secretary
12 of Energy and the Congress an annual report containing
13 a description of the extent to which the Center is achieving
14 its research and development goals.

15 (c) MEMBERSHIP.—The Advisory Council shall be
16 composed of 12 members as follows:

17 (1) The Under Secretary for Science of the De-
18 partment of Energy.

19 (2) The Administrator of the Research and In-
20 novative Technology Administration.

21 (3) The Director of the National Science Foun-
22 dation.

23 (4) The Chairman of the Federal Laboratory
24 Consortium for Technology Transfer.

1 (5) Eight members appointed by the President
2 as follows:

3 (A) Three members who are eminent indi-
4 viduals in the automotive technology and manu-
5 facturing industry.

6 (B) Two members who are eminent indi-
7 viduals in the fields of alternative fuels tech-
8 nology.

9 (C) Two members who represent organized
10 labor in these related manufacturing fields.

11 (D) One member who represents consumer
12 interests in energy efficiency and conservation.

13 (d) TERMS OF MEMBERSHIP.—Each member of the
14 Advisory Council appointed under subsection (c)(5) shall
15 be appointed for a term of three years, except that of the
16 members first appointed, two shall be appointed for a term
17 of one year, two shall be appointed for a term of two years,
18 and three shall be appointed for a term of three years,
19 as designated by the President at the time of appointment.
20 A member of the Advisory Council may serve after the
21 expiration of the member's term until a successor has
22 taken office.

23 (e) VACANCIES.—A vacancy in the Advisory Council
24 shall not affect its powers but, in the case of a member
25 appointed under subsection (c)(5), shall be filled in the

1 same manner as the original appointment was made. Any
2 member appointed to fill a vacancy for an unexpired term
3 shall be appointed for the remainder of such term.

4 (f) QUORUM.—Seven members of the Advisory Coun-
5 cil shall constitute a quorum.

6 (g) MEETINGS.—The Advisory Council shall meet at
7 the call of the Chairman or a majority of its members.

8 (h) COMPENSATION.—(1) Each member of the Advi-
9 sory Council shall serve without compensation.

10 (2) While away from their homes or regular places
11 of business in the performance of duties for the Advisory
12 Council, members of the Advisory Council shall be allowed
13 travel expenses, including per diem in lieu of subsistence,
14 at rates authorized for employees of agencies under sec-
15 tions 5702 and 5703 of title 5, United States Code.

16 (i) FEDERAL ADVISORY COMMITTEE ACT.—Section
17 14 of the Federal Advisory Committee Act (5 U.S.C.
18 App.) shall not apply to the Advisory Council.

19 **SEC. 205. RESPONSIBILITIES.**

20 The Comptroller General of the United States shall—

21 (1) review the annual reports of the auditor
22 submitted to the Comptroller General in accordance
23 with section 202(d)(4)(B); and

24 (2) transmit to the Congress comments of the
25 accuracy and completeness of those reports, and any

1 additional comments on the reports that the Comp-
2 troller General considers appropriate.

3 **SEC. 206. EXPORT OF HIGH-EFFICIENCY VEHICLE MANU-**
4 **FACTURING.**

5 Any export of materials, equipment, and technology
6 developed by the Center in whole or in part with financial
7 assistance provided under this title shall be subject to the
8 Export Administration Act of 1979 (50 U.S.C. App. 2401
9 et seq.), as continued in effect under the International
10 Emergency Economic Powers Act, and shall not be subject
11 to the Arms Export Control Act.

12 **SEC. 207. PROTECTION OF INFORMATION.**

13 (a) FREEDOM OF INFORMATION ACT.—Section 552
14 of title 5, United States Code, shall not apply to informa-
15 tion obtained by the Federal Government on a confidential
16 basis under this title.

17 (b) INFORMATION.—Notwithstanding any other pro-
18 vision of law, intellectual property, trade secrets, and tech-
19 nical data owned and developed by the Center or any of
20 the participants in the Center may not be disclosed by any
21 officer or employee of the Department of Energy except
22 as provided in the provision included in the memorandum
23 of understanding pursuant to section 202(d).

1 **SEC. 208. AUTHORIZATION ON APPROPRIATIONS.**

2 There are authorized to be appropriated to the Sec-
3 retary of Energy for carrying out this title \$500,000,000
4 for each of the fiscal years 2008 through 2017.

5 **SEC. 209. ADVANCED BATTERY LOAN GUARANTEE PRO-**
6 **GRAM.**

7 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
8 of Energy shall establish a program to provide guarantees
9 of loans by private institutions for the construction of fa-
10 cilities for the manufacture of advanced vehicle batteries
11 that are developed and produced in the United States, in-
12 cluding advanced lithium ion batteries.

13 (b) REQUIREMENTS.—The Secretary may provide a
14 loan guarantee under subsection (a) to an applicant if—

15 (1) without a loan guarantee, credit is not
16 available to the applicant under reasonable terms or
17 conditions sufficient to finance the construction of a
18 facility described in subsection (a);

19 (2) the prospective earning power of the appli-
20 cant and the character and value of the security
21 pledged provide a reasonable assurance of repayment
22 of the loan to be guaranteed in accordance with the
23 terms of the loan; and

24 (3) the loan bears interest at a rate determined
25 by the Secretary to be reasonable, taking into ac-
26 count the current average yield on outstanding obli-

1 gations of the United States with remaining periods
2 of maturity comparable to the maturity of the loan.

3 (c) CRITERIA.—In selecting recipients of loan guar-
4 antees from among applicants, the Secretary shall give
5 preference to proposals that—

6 (1) meet all applicable Federal and State per-
7 mitting requirements;

8 (2) are most likely to be successful; and

9 (3) are located in local markets that have the
10 greatest need for the facility.

11 (d) MATURITY.—A loan guaranteed under subsection
12 (a) shall have a maturity of not more than 20 years.

13 (e) TERMS AND CONDITIONS.—The loan agreement
14 for a loan guaranteed under subsection (a) shall provide
15 that no provision of the loan agreement may be amended
16 or waived without the consent of the Secretary.

17 (f) ASSURANCE OF REPAYMENT.—The Secretary
18 shall require that an applicant for a loan guarantee under
19 subsection (a) provide an assurance of repayment in the
20 form of a performance bond, insurance, collateral, or other
21 means acceptable to the Secretary in an amount equal to
22 not less than 20 percent of the amount of the loan.

23 (g) GUARANTEE FEE.—The recipient of a loan guar-
24 antee under subsection (a) shall pay the Secretary an
25 amount determined by the Secretary to be sufficient to

1 cover the administrative costs of the Secretary relating to
2 the loan guarantee.

3 (h) FULL FAITH AND CREDIT.—The full faith and
4 credit of the United States is pledged to the payment of
5 all guarantees made under this section. Any such guar-
6 antee made by the Secretary shall be conclusive evidence
7 of the eligibility of the loan for the guarantee with respect
8 to principal and interest. The validity of the guarantee
9 shall be incontestable in the hands of a holder of the guar-
10 anteed loan.

11 (i) REPORTS.—Until each guaranteed loan under this
12 section has been repaid in full, the Secretary shall annu-
13 ally submit to Congress a report on the activities of the
14 Secretary under this section.

15 (j) AUTHORIZATION OF APPROPRIATIONS.—There
16 are authorized to be appropriated such sums as are nec-
17 essary to carry out this section.

18 (k) TERMINATION OF AUTHORITY.—The authority of
19 the Secretary to issue a loan guarantee under subsection
20 (a) terminates on the date that is 10 years after the date
21 of enactment of this Act.

22 **SEC. 210. DOMESTIC MANUFACTURING CONVERSION**
23 **GRANT PROGRAM.**

24 Section 712 of the Energy Policy Act of 2005 (42
25 U.S.C. 16062) is amended—

1 (1) in subsection (a)—

2 (A) by inserting “and components thereof,
3 including vehicles and components derived from
4 the activities of the New Manhattan Center for
5 High Efficiency Vehicles” after “sales of effi-
6 cient hybrid and advanced diesel vehicles”;

7 (B) by inserting “, plug-in electric hybrid,
8 flexible-fuel,” after “production of efficient hy-
9 brid”; and

10 (C) by adding at the end the following:
11 “Priority shall be given to the refurbishment or
12 retooling of manufacturing facilities that have
13 recently ceased operation or will cease operation
14 in the near future.”; and

15 (2) by striking subsection (b) and inserting the
16 following:

17 “(b) COORDINATION WITH STATE AND LOCAL PRO-
18 GRAMS.—The Secretary may coordinate implementation of
19 this section with State and local programs designed to ac-
20 complish similar goals, including the retention and retrain-
21 ing of skilled workers from the such manufacturing facili-
22 ties, including by establishing matching grant arrange-
23 ments.

1 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary for car-
3 rying out this section—

4 “(1) \$200,000,000 for each of the fiscal years
5 2008 through 2012; and

6 “(2) such sums as may be necessary for each
7 of the fiscal years 2013 through 2016.”.

8 **TITLE III—BIOFUELS INFRA-**
9 **STRUCTURE DEVELOPMENT**

10 **SEC. 301. BIOFUELS INFRASTRUCTURE DEVELOPMENT.**

11 (a) GRANT PROGRAM.—The Secretary of Energy
12 shall establish a program for making grants for providing
13 assistance to retail and wholesale motor fuel dealers or
14 other entities for the installation, replacement, or conver-
15 sion of motor fuel storage and dispensing infrastructure
16 to be used exclusively to store and dispense biobased fuel
17 (as defined in section 303(2) of the Biomass Research and
18 Development Act of 2000 (7 U.S.C. 8101 note)), including
19 E–85 gasoline, biodiesel, or biodiesel blended fuel. Such
20 infrastructure may include equipment used in the blend-
21 ing, distribution, and transport of such fuels.

22 (b) RETAIL TECHNICAL AND MARKETING ASSIST-
23 ANCE.—The Secretary of Energy shall enter into contracts
24 with entities with demonstrated experience in assisting re-
25 tail fueling stations in installing refueling systems and

1 marketing alternative fuels nationally, for the provision of
2 technical and marketing assistance to recipients of grants
3 under this section. Such assistance shall include—

4 (1) technical advice for compliance with applica-
5 ble Federal and State environmental requirements;

6 (2) help in identifying supply sources and se-
7 curing long-term contracts; and

8 (3) provision of public outreach, education, and
9 labeling materials.

10 (c) ALLOCATION.—Grants under this section shall be
11 made to applicants based upon criteria that will maximize
12 the availability and use of the alternative fuel, and that
13 will ensure that alternative fuels are available across the
14 country, such as population, number of vehicles that can
15 operate on E-85, number of diesel powered vehicles, num-
16 ber of retail fuel outlets, and saturation of vehicles capable
17 of operating on the fuels described in subsection (a). The
18 Secretary of Energy may also reserve funds appropriated
19 for carrying out this section to support biofuels infrastruc-
20 ture development projects with a cost of greater than
21 \$1,000,000, that are of national significance. The Sec-
22 retary shall reserve funds appropriated for the biofuels in-
23 frastructure development grant program for technical and
24 marketing assistance described in subsection (b). Grants
25 shall be prioritized based on criteria that include—

1 (1) the public demand for each alternative fuel
2 in a particular geographic area based on State reg-
3 istration records showing the number of automobiles
4 that can be operated with alternative fuel; and

5 (2) the opportunity to create or expand cor-
6 ridors of alternative fuel stations along interstate or
7 State highways.

8 (d) COMBINED APPLICATIONS.—States and local gov-
9 ernment entities and nonprofit entities may apply for as-
10 sistance under this section on behalf of a group of retailers
11 within a certain geographic area, or to carry out regional
12 or multistate deployment projects. Any such application
13 shall certify the availability and details of a program to
14 match the Federal grant as required under subsection (e)
15 and list the retail locations that would receive the funds.

16 (e) LIMITATIONS.—Assistance provided under this
17 section shall not exceed—

18 (1) 33 percent of the estimated cost of the in-
19 stallation, replacement, or conversion of motor fuel
20 storage and dispensing infrastructure; or

21 (2) \$180,000 for a combination of equipment at
22 any one retail outlet.

23 (f) OPERATION OF ALTERNATIVE FUEL STATIONS.—
24 The Secretary shall establish rules that set forth require-
25 ments for grant recipients under this section that include

1 providing to the public the alternative fuel, establishing
2 a marketing plan that informs consumers of the price and
3 availability of the alternative fuel, clearly labeling the dis-
4 pensers and related equipment, and providing periodic re-
5 ports on the status of the alternative fuel sales, the type
6 and amount of the alternative fuel dispensed at each loca-
7 tion, and the average price of such fuel.

8 (g) NOTIFICATION REQUIREMENTS.—Not later than
9 the date on which each alternative fuel station begins to
10 offer alternative fuel to the public, the grant recipient that
11 used grant funds to construct or upgrade such station
12 shall notify the Secretary of Energy of such opening. The
13 Secretary of Energy shall add each new alternative fuel
14 station to the alternative fuel station locator on its
15 Website when it receives notification under this sub-
16 section.

17 (h) INELIGIBILITY.—No person may receive assist-
18 ance under this section and receive a credit under section
19 30C of the Internal Revenue Code of 1986.

20 (i) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated to the Secretary of En-
22 ergy for carrying out this section \$200,000,000 for each
23 of the fiscal years 2008 through 2012, and such sums as
24 may be necessary thereafter.

1 **TITLE IV—GOVERNMENT USE**
2 **AND DIVERSITY OF SUPPLY**

3 **SEC. 401. RENEWABLE FUEL REGULATIONS.**

4 The Secretary of Energy shall issue regulations under
5 section 212 of the Clean Air Act (as added by section 1511
6 of the Energy Policy Act of 2005) to provide for cellulosic
7 ethanol production loan guarantees and issue a request for
8 proposals under subsection (b) of such section 212 within
9 90 days after the enactment of this Act.

10 **SEC. 402. GRANTS FOR CELLULOSIC ETHANOL PRODUC-**
11 **TION.**

12 Subsection (s) of section 211 of the Clean Air Act
13 is redesignated as subsection (t) and subsection (r) of such
14 section 211 (as added by section 1512 of the Energy Pol-
15 icy Act of 2005), relating to conversion assistance for cel-
16 lulosic biomass, waste-derived ethanol, and approved re-
17 newable fuels, is redesignated as subsection (s) and
18 amended as follows:

19 (1) By adding the following new subparagraphs
20 at the end of paragraph (3):

21 “(D) \$500,000,000 for fiscal year 2009.

22 “(E) \$500,000,000 for fiscal year 2010.”.

23 (2) By adding the following new paragraph at
24 the end thereof:

1 “(5) GEOGRAPHICAL DISPERSION.—The grants
2 under this subsection shall be made to recipients dis-
3 tributed regionally across the country in such man-
4 ner that an eligible production facility is constructed
5 in each PADD (and each of the subpads in PADD
6 1) throughout the country with each such facility
7 using, to the extent possible, a different feedstock
8 material.”.

9 **SEC. 403. STANDARD SPECIFICATIONS FOR BIODIESEL.**

10 Section 211 of the Clean Air Act is amended by add-
11 ing the following new subsection at the end thereof:

12 “(u) STANDARD SPECIFICATIONS FOR BIODIESEL.—
13 Not later than 180 days after the enactment of this sub-
14 section, the Administrator shall promulgate regulations es-
15 tablishing a series of uniform per gallon fuel standards
16 for categories of biodiesel fuel and designate an identifica-
17 tion number for fuel meeting each the standard in each
18 such category so that vehicle manufacturers are able to
19 design engines to use biodiesel fuel meeting one or more
20 of such standards.”.

21 **SEC. 404. REQUIREMENT FOR GREATER USE OF ALTER-**
22 **NATIVE FUELS IN FEDERAL FLEET.**

23 Section 400AA(a)(3)(E) of the Energy Policy and
24 Conservation Act (42 U.S.C. 6374(a)(3)(E)) is amended
25 by adding at the end the following new clauses:

1 “(iii) The report under clause (ii) also shall include
2 an identification of the geographic areas where the alter-
3 native fuel required to be used in dual fueled vehicles ac-
4 quired pursuant to this section is not reasonably available,
5 as certified under clause (i)(I), and a list of such areas
6 where it would be most beneficial, in order of priority, to
7 install a pump for dispensing a fuel known as E-85 or
8 biodiesel fuel for such vehicles.

9 “(iv) The Secretary may not grant a waiver under
10 clause (i) in any fiscal year following a fiscal year in which
11 the report under clause (ii) is not filed. In the case of
12 an agency that receives a waiver under clause (i) for 2
13 successive fiscal years, the agency shall submit to the Sec-
14 retary and Congress recommendations for solving the
15 problems causing the need for the waiver.”.

16 **SEC. 405. REQUIREMENT FOR INSPECTOR GENERAL INVES-**
17 **TIGATIONS RELATING TO ALTERNATIVE**
18 **FUEL USE AND SUPPLY IN FEDERAL AGEN-**
19 **CIES AND REGULATIONS.**

20 (a) REQUIREMENT.—The Inspector General of each
21 department or agency shall conduct a comprehensive in-
22 vestigation into alternative fuel use and supply within the
23 department or agency to identify the reasons why alter-
24 native fuels are not being used in all dual fueled vehicles
25 operated by the department or agency.

1 (b) MATTERS COVERED.—At a minimum, the inves-
2 tigation required under subsection (a) shall cover the fol-
3 lowing:

4 (1) The location of the dual fueled vehicles op-
5 erated by the department or agency and the location
6 of the nearest alternative fuel pumps.

7 (2) Whether dual fueled vehicles operated by
8 the department or agency would make better use of
9 alternative fuel if the vehicles were redeployed to
10 other geographic areas.

11 (3) The steps undertaken by the head of the de-
12 partment or agency to ensure that the dual fueled
13 vehicles use alternative fuel, including—

14 (A) whether such use is a priority for the
15 department or agency; and

16 (B) whether and how often waivers are
17 sought and obtained under section
18 400AA(a)(3)(E) of the Energy Policy and Con-
19 servation Act (42 U.S.C. 6374(a)(3)(E)).

20 (4) The manner in which use of alternative fuel
21 is kept track of in vehicles leased by the department
22 or agency.

23 (c) REPORT.—The Inspector General of each depart-
24 ment or agency shall submit to Congress a report on the
25 investigation conducted under subsection (a) not later

1 than January 3, 2008. The report shall include the results
2 of the investigation and recommendations by the Inspector
3 General for increased use of alternative fuels in the dual
4 fueled vehicles operated by the department or agency.

5 **SEC. 406. REPORT ON VEHICLES AND INFRASTRUCTURE**
6 **FOR ALTERNATIVE FUEL USE.**

7 Not later than 90 days after the date of the enact-
8 ment of this Act, the Secretary of Defense shall submit
9 to Congress a report that identifies, across the Armed
10 Forces, the locations and concentrations of flex-fuel vehi-
11 cles in the current and planned inventory of the Depart-
12 ment of Defense, as well as the diesel engine vehicles and
13 equipment, so as to prioritize the location and placement
14 of new alternative fuel infrastructure to maximize the use
15 of alternative fuels (such as E-85 and biodiesel) in vehi-
16 cles acquired under the requirements of the Energy Policy
17 Act of 1992. The report shall also identify the locations
18 that are currently served by contract or commercial avail-
19 ability, and contain recommendations for future coordina-
20 tion and use of commercial outlets of alternative fuels.

21 **SEC. 407. FUNDS SET ASIDE FOR ALTERNATIVE FUEL IN-**
22 **FRASTRUCTURE.**

23 (a) PERCENTAGE REQUIRED.—Of the amounts ap-
24 propriated or otherwise made available for a fiscal year
25 for activities of the Defense Energy Support Center of the

1 Defense Logistics Agency for noncombat fuel infrastruc-
2 ture, not less than 5 percent shall be available only for
3 alternative fuel (such as E-85 and biodiesel) infrastruc-
4 ture.

5 (b) TERMINATION.—The requirement of subsection
6 (a) terminates as of the date on which the Secretary of
7 Defense submits to Congress the Secretary’s certification
8 that the Department of Defense can run all noncombat
9 flex-fuel vehicles in the inventory of the Department on
10 alternative fuels (such as E-85 and biodiesel).

11 **SEC. 408. AUTHORITY FOR DEPARTMENT OF DEFENSE TO**
12 **ENTER INTO LONG-TERM CONTRACTS TO**
13 **PROCURE BIOBASED FUEL AND UNCONVEN-**
14 **TIONAL FUEL.**

15 Section 2922d of title 10, United States Code, is
16 amended—

17 (1) in subsection (b), by inserting after “cov-
18 ered fuel” the following: “, biobased fuel, or coal-to-
19 liquid fuel”;

20 (2) in subsection (d)—

21 (A) by inserting after “covered fuel” the
22 following: “, biobased fuel, or coal-to-liquid
23 fuel”; and

24 (B) by striking “1 or more years” and in-
25 serting “up to 25 years”; and

1 (3) by adding at the end the following new sub-
2 section:

3 “(f) DEFINITIONS.—In this section:

4 “(1) The term ‘biobased fuel’ has the meaning
5 provided in section 303(2) of the Biomass Research
6 and Development Act of 2000 (7 U.S.C. 8101
7 note)), including E–85 gasoline, biodiesel, or bio-
8 diesel blended fuel.

9 “(2) The term ‘coal-to-liquid fuel’ means a fuel
10 produced from a coal-to-liquid process or technology
11 in a coal-to-liquid facility.

12 “(3) The term ‘coal-to-liquid’ means—

13 “(A) with respect to a process or tech-
14 nology, the use of the coal resources of the
15 United States, using the class of chemical reac-
16 tions known as Fischer-Tropsch, to produce
17 synthetic fuel suitable for transportation; and

18 “(B) with respect to a facility, the portion
19 of a facility related to the Fischer-Tropsch
20 process, or related to Fischer-Tropsch finished
21 fuel production, that ensures the capture, trans-
22 portation, and sequestration of byproducts of
23 the use of coal at the facility, including carbon
24 emissions.”.

1 **SEC. 409. FEDERAL SUPPORT FOR PLUG-IN HYBRID ELEC-**
2 **TRIC VEHICLES.**

3 (a) AMENDMENT.—Section 301 of the Energy Policy
4 Act of 1992 (42 U.S.C. 13211) is amended—

5 (1) in paragraph (8)—

6 (A) by striking “or” at the end of subpara-
7 graph (A);

8 (B) by inserting “or” at the end of sub-
9 paragraph (B); and

10 (C) by adding after subparagraph (B) the
11 following new subparagraph:

12 “(C) a hybrid electric vehicle;”;

13 (2) by redesignating paragraphs (11), (12),
14 (13), and (14) as paragraphs (12), (13), (14), and
15 (16) respectively;

16 (3) by inserting after paragraph (10) the fol-
17 lowing new paragraph:

18 “(11) the term ‘hybrid electric vehicle’ means a
19 vehicle that—

20 “(A) can operate on either liquid combus-
21 tible fuel or electric power provided by an on-
22 board battery; and

23 “(B) utilizes regenerative power capture
24 technology to recover energy expended in brak-
25 ing the vehicle for use in recharging the bat-
26 tery;”;

1 (4) in paragraph (14), as so redesignated by
2 paragraph (2) of this subsection, by striking “and”
3 at the end; and

4 (5) by inserting after paragraph (14), as so re-
5 designated by paragraph (2) of this subsection, the
6 following new paragraph:

7 “(15) the term ‘plug-in hybrid electric vehicle’
8 means a hybrid electric vehicle that can operate sole-
9 ly on electric power for a minimum of 20 miles
10 under city driving conditions, and that is capable of
11 recharging its battery from an offboard electricity
12 source; and”.

13 (b) PLUG-IN HYBRID ELECTRIC VEHICLE MATCHING
14 GRANTS.—

15 (1) ESTABLISHMENT.—The Secretary of En-
16 ergy shall establish a competitive grant program to
17 provide not more than 25 grants annually to State
18 governments, local governments, metropolitan trans-
19 portation authorities, or combinations thereof for the
20 purposes of procuring and testing plug-in hybrid
21 electric vehicles.

22 (2) APPLICATIONS.—

23 (A) REQUIREMENTS.—The Secretary shall
24 issue requirements for applying for grants
25 under the program. The Secretary shall require

1 that applications, at a minimum, include a de-
2 scription of how data will be—

3 (i) collected on the—

4 (I) performance of the vehicle or
5 vehicles and the components, includ-
6 ing the battery, energy management,
7 and charging systems, under various
8 driving speeds, trip ranges, traffic,
9 and other driving conditions;

10 (II) costs of the vehicle or vehi-
11 cles, including acquisition, operating,
12 and maintenance costs, and how the
13 project or projects will be self-sus-
14 taining after Federal assistance is
15 completed; and

16 (III) emissions of the vehicle or
17 vehicles, including greenhouse gases,
18 and the amount of petroleum dis-
19 placed as a result of the project or
20 projects; and

21 (ii) summarized for dissemination to
22 the Department of Energy, other grantees,
23 and the public.

24 (B) PARTNERS.—An applicant under sub-
25 paragraph (A) may carry out a project or

1 projects in partnership with one or more private
2 entities.

3 (C) RESTRICTIONS.—The Secretary shall
4 award grants under this subsection with geo-
5 graphic diversity such that there is at least one
6 recipient government partner in every PADD,
7 and in every Sub-PADD in the case of PADD
8 1.

9 (c) REPORT.—The Secretary of Energy shall report
10 to Congress on the potential for Federal Government pro-
11 curement and acquisition of plug-in electric hybrid vehi-
12 cles, including a proposed schedule for the acquisition of
13 such vehicles, and including possible participation in com-
14 mitment programs such as the National Plug-in Partners
15 Campaign.

16 **SEC. 410. CONGRESSIONAL ALTERNATIVE FUEL USE IN VE-**
17 **HICLES.**

18 (a) FINDINGS.—The Congress finds that—

19 (1) Members of Congress should follow their
20 own example of setting forth legislation that encour-
21 ages the use of alternatively fueled vehicles;

22 (2) in 2005, the total cost of automobile leases
23 for Members of Congress surpassed \$1,000,000, and
24 a collective switch to alternative fuel vehicles, hybrid
25 vehicles, or vehicles powered by biofuels could poten-

1 tially save American taxpayers thousands of dollars
2 annually; and

3 (3) the General Services Administration has al-
4 ready purchased over 68,000 alternative fueled vehi-
5 cles for the use of Federal customers, more than any
6 other organization in the United States.

7 (b) STUDY.—Not later than 6 months after the date
8 of enactment of this Act, the Comptroller General shall
9 transmit to the Congress the results of a study, along with
10 recommendations, as to how best to enable Members of
11 Congress to procure alternative fuel vehicles for official
12 use.

13 (c) LEASING ADVICE.—The Chief Administrative Of-
14 ficer of the House of Representatives and the Secretary
15 of the Senate shall advise Members of their respective bod-
16 ies as to the available options to lease alternative fuel vehi-
17 cles, including vehicles treated as alternative fuels vehicles
18 by the Administrator of General Services under standards
19 established by the Administrator, any other vehicles pow-
20 ered by alternative fuel or synthetic fuel, and any other
21 vehicles powered in whole or in part by flexible-fuel oper-
22 ating systems, biofuel operating systems, electrical oper-
23 ating systems, or hybrid-electrical operating systems.

1 **TITLE V—TRANSIT PROMOTION**
2 **AND RAIL INFRASTRUCTURE**
3 **DEVELOPMENT**

4 **Subtitle A—Transit**

5 **SEC. 501. INCREASE AND EXPANSION OF EMPLOYER-PRO-**
6 **VIDED MASS TRANSIT FRINGE BENEFITS.**

7 (a) EQUALIZATION OF LIMITATION FOR EMPLOYER-
8 PROVIDED MASS TRANSIT FRINGE BENEFIT WITH LIMI-
9 TATION FOR EMPLOYER-PROVIDED PARKING FRINGE
10 BENEFIT.—

11 (1) IN GENERAL.—Subparagraph (A) of section
12 132(f)(2) of the Internal Revenue Code of 1986 is
13 amended by striking “\$100” and inserting “\$175”.

14 (2) INFLATION ADJUSTMENT.—Subparagraph
15 (A) of section 132(f)(6) of such Code is amended by
16 striking the last sentence thereof.

17 (b) EXTENSION OF TRANSPORTATION FRINGE BEN-
18 EFIT TO BICYCLE COMMUTERS.—

19 (1) IN GENERAL.—Paragraph (1) of section
20 132(f) of the Internal Revenue Code of 1986 (relat-
21 ing to general rule for qualified transportation
22 fringe) is amended by adding at the end the fol-
23 lowing:

24 “(D) Bicycle commuting allowance.”.

1 (2) BICYCLE COMMUTING ALLOWANCE DE-
2 FINED.—Paragraph (5) of section 132(f) of such
3 Code (relating to definitions) is amended by adding
4 at the end the following:

5 “(F) BICYCLE COMMUTING ALLOWANCE.—

6 The term ‘bicycle commuting allowance’ means
7 an amount provided to an employee for trans-
8 portation on a bicycle if such transportation is
9 in connection with travel between the employ-
10 ee’s residence and place of employment.”.

11 (3) LIMITATION ON EXCLUSION.—Subpara-
12 graph (A) of section 132(f)(2) of such Code is
13 amended by striking “subparagraphs (A) and (B)”
14 and inserting “subparagraphs (A), (B), and (D)”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2006.

18 **SEC. 502. GRANTS TO IMPROVE PUBLIC TRANSPORTATION**
19 **SERVICES.**

20 (a) AUTHORIZATIONS OF APPROPRIATIONS.—

21 (1) URBANIZED AREA FORMULA GRANTS.—In
22 addition to other amounts authorized or made avail-
23 able, there is authorized to be appropriated
24 \$2,000,000,000 for fiscal year 2008 to carry out
25 section 5307 of title 49, United States Code.

1 (2) FORMULA GRANTS FOR OTHER THAN UR-
2 BANIZED AREAS.—In addition to other amounts au-
3 thorized or made available, there is authorized to be
4 appropriated \$200,000,000 for fiscal year 2008 to
5 carry out section 5311 of such title.

6 (b) USE OF FUNDS.—

7 (1) IN GENERAL.—Funds appropriated pursu-
8 ant to this section shall be used for projects that will
9 expand or improve public transportation services
10 provided by existing public transportation systems,
11 as determined by the Secretary of Transportation.

12 (2) PRIORITY.—In awarding grants using funds
13 appropriated pursuant to subsection (a)(2), the Sec-
14 retary shall give priority to projects involving vehi-
15 cles that use clean fuels or are powered by biofuels.

16 (c) MATCHING SHARE.—

17 (1) DEFERRAL.—In awarding a grant for a
18 project using funds appropriated pursuant to sub-
19 section (a), the Secretary may permit the recipient
20 of the grant to defer payment of the non-Federal
21 share of cost of the project for a period not to ex-
22 ceed 2 fiscal years.

23 (2) LIMITATION.—The Secretary may permit
24 such a deferral only if the Secretary determines that
25 the deferral will not result in a decrease in the ag-

1 aggregate amount of funds provided by the recipient in
2 a fiscal year for projects under section 5307 or 5311
3 of such title, as appropriate, as compared to the pre-
4 ceding fiscal year.

(d) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section shall remain available until expended.

8 SEC. 503. STUDY OF FUEL SAVINGS FROM INTELLIGENT
9 TRANSPORTATION SYSTEMS.

Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall, in consultation with the Secretary of Transportation, report to Congress on the potential fuel savings from intelligent transportation systems that help businesses and consumers to plan their travel and avoid delays. These systems may include web-based real-time transit information systems, congestion information systems, carpool information systems, parking information systems, freight route management, and traffic management systems. The report shall include analysis of fuel savings, analysis of system costs, assessment of local, State, and regional differences in applicability, and evaluation of case studies, best practices, and emerging technologies from both the private and public sector.

1 **Subtitle B—Secure Access for**
2 **Commuter Rail**

3 **SEC. 511. SHORT TITLE.**

4 This subtitle may be cited as the “Transit Rail Ac-
5 commodation Improvement and Needs Act”.

6 **SEC. 512. FINDINGS.**

7 The Congress finds that—

8 (1) modern and efficient fixed guideway trans-
9 portation is important to the viability and well-being
10 of metropolitan areas and to the energy conservation
11 and self-sufficiency goals of the United States;

12 (2) public convenience and necessity require the
13 development of fixed guideway transportation sys-
14 tems in metropolitan areas presently without such
15 service, and the expansion of existing systems in
16 metropolitan areas already receiving such service;
17 and

18 (3) use of existing railroad trackage and rights-
19 of-way in and around metropolitan areas provides a
20 unique and valuable opportunity for the development
21 and expansion of fixed guideway transportation fa-
22 cilities with a minimum of disruption to the environ-
23 ment and the surrounding community.

1 **SEC. 513. RAIL TRANSIT ACCESS.**

2 (a) AMENDMENT.—Part E of subtitle V of title 49,
3 United States Code, is amended by adding at the end the
4 following new chapter:

5 **“CHAPTER 285—RAIL TRANSIT ACCESS**

“Sec.

“28501. Definitions.

“28502. Shared use of rail carrier trackage by mass transportation authorities.

“28503. Shared use of rail rights-of-way by mass transportation authorities.

“28504. Applicability of other laws.

“28505. Standards for Board action.

6 **“§ 28501. Definitions**

7 “In this chapter—

8 “(1) the term ‘Board’ means the Surface
9 Transportation Board;

10 “(2) the term ‘capital work’ means mainte-
11 nance, restoration, reconstruction, capacity enhance-
12 ment, or rehabilitation work on trackage that would
13 be treated, in accordance with generally accepted ac-
14 counting principles, as a capital item rather than an
15 expense;

16 “(3) the term ‘fixed guideway transportation’
17 means mass transportation (as defined in section
18 5302(a)(7)) provided on, by, or using a fixed guide-
19 way (as defined in section 5302(a)(4));

20 “(4) the term ‘mass transportation authority’
21 means a local governmental authority (as defined in
22 section 5302(a)(6)) established to provide, or make

1 a contract providing for, fixed guideway transpor-
2 tation;

3 “(5) the term ‘rail carrier’ means a person,
4 other than a governmental authority, providing com-
5 mon carrier railroad transportation for compensation
6 subject to the jurisdiction of the Board under chap-
7 ter 105;

8 “(6) the term ‘segregated fixed guideway facil-
9 ity’ means a fixed guideway facility constructed
10 within the railroad right-of-way of a rail carrier but
11 physically separate from trackage, including relo-
12 cated trackage, within the right-of-way used by a
13 rail carrier for freight transportation purposes; and

14 “(7) the term ‘trackage’ means a railroad line
15 of a rail carrier, including a spur, industrial, team,
16 switching, side, yard, or station track, and a facility
17 of a rail carrier.

18 **“§ 28502. Shared use of rail carrier trackage by mass**
19 **transportation authorities**

20 “(a) AUTHORITY.—If, after a reasonable period of
21 negotiation, a mass transportation authority cannot reach
22 agreement with a rail carrier to use trackage of, and have
23 related services provided by, the rail carrier for purposes
24 of fixed guideway transportation, the Board shall, upon
25 application of the mass transportation authority or the rail

1 carrier, and if the Board finds it necessary or useful to
2 carry out this chapter—

3 “(1) order that the trackage be made available
4 and the related services be provided to the mass
5 transportation authority; and

6 “(2) prescribe reasonable terms and compensa-
7 tion for use of the trackage and provision of the re-
8 lated services, including the performance of capital
9 work if the mass transportation authority has dem-
10 onstrated that such capital work is required for effi-
11 cient and reliable passenger operations on the track-
12 age to be used.

13 “(b) STANDARD FOR COMPENSATION; QUALITY OF
14 SERVICE.—When prescribing reasonable compensation
15 under subsection (a)(2), the Board shall consider alter-
16 native cost allocation principles, including incremental cost
17 and fully allocated cost, under rules promulgated by the
18 Board within 6 months after the date of the enactment
19 of the Transit Rail Accommodation Improvement and
20 Needs Act. The Board shall consider quality of service by
21 the rail carrier as a major factor when determining com-
22 pensation for the use of the trackage and providing the
23 related services.

24 “(c) TERMS OF OPERATION.—When prescribing rea-
25 sonable terms under subsection (a)(2), the Board may pre-

1 scribe the number of trains that may be operated by or
2 for the mass transportation authority, the speeds at which
3 such trains may be operated, and the trackage mainte-
4 nance levels to be provided by the rail carrier.

5 “(d) ADDITIONAL TRAINS.—When a rail carrier and
6 a mass transportation authority cannot agree to terms for
7 the operation of additional trains by or for a mass trans-
8 portation authority over a rail line of the carrier, the mass
9 transportation authority or the rail carrier may apply to
10 the Board for an order establishing such terms. If the
11 Board finds it reasonable to carry out this chapter, the
12 Board shall order the rail carrier to allow operation of the
13 requested additional trains on such terms as the Board
14 finds reasonable under the circumstances.

15 “(e) TRACKAGE MAINTENANCE.—If a mass transpor-
16 tation authority believes that maintenance or related cap-
17 ital work of trackage operated by or for the mass transpor-
18 tation authority has fallen below a necessary level to main-
19 tain reliable service at speeds necessary to provide conven-
20 ient and efficient mass transportation service, the mass
21 transportation authority may, after notice to the rail car-
22 rier and a sufficient period for maintenance or related cap-
23 ital work improvements, apply to the Board for an order
24 requiring the rail carrier to provide increased or improved
25 maintenance or related capital work on the trackage. If

1 the Board finds it reasonable to carry out this part, the
2 Board shall order the rail carrier to provide such increased
3 or improved maintenance or related capital work as the
4 Board finds reasonable under the circumstances. The rem-
5 edy available under this subsection shall be in addition to
6 any contract rights that a mass transportation authority
7 may possess with respect to trackage maintenance or re-
8 lated capital work.

9 “(f) ACCELERATED SPEEDS.—If a rail carrier re-
10 fuses to allow accelerated speeds for trains operated by
11 or for a mass transportation authority, the mass transpor-
12 tation authority may apply to the Board for an order re-
13 quiring the rail carrier to allow the accelerated speeds and
14 related capital work required to permit operation at the
15 accelerated speeds. The Board shall decide whether accel-
16 erated speeds are practicable and which capital work
17 would be required to make accelerated speeds practicable.
18 The Board shall establish the maximum allowable speeds
19 for trains operated by or for a mass transportation author-
20 ity on terms the Board decides are reasonable.

21 “(g) PREFERENCE OVER FREIGHT TRANSPOR-
22 TATION.—Except in an emergency, and consistent with
23 subtitle E of title V of the PROGRESS Act and regula-
24 tions issued thereunder, fixed guideway transportation
25 provided by or for a mass transportation authority pursu-

1 ant to an order issued under subsection (a) has preference
2 over freight transportation in using a rail line, junction,
3 or crossing unless the Board orders otherwise under this
4 chapter. A rail carrier affected by this subsection may
5 apply to the Board for relief. If the Board decides that
6 preference for fixed guideway transportation materially
7 will lessen the quality of freight transportation provided
8 to shippers, the Board shall establish the rights of the rail
9 carrier and the mass transportation authority on reason-
10 able terms.

11 “(h) FINAL DETERMINATION.—The Board shall
12 make a determination under this section not later than
13 120 days after a mass transportation authority or a rail
14 carrier submits an application to the Board.

15 **“§ 28503. Shared use of rail rights-of-way by mass**
16 **transportation authorities**

17 “(a) GENERAL AUTHORITY.—If, after a reasonable
18 period of negotiation, a mass transportation authority can-
19 not reach agreement with a rail carrier to acquire an inter-
20 est in a railroad right-of-way for the construction and op-
21 eration of a segregated fixed guideway facility, the mass
22 transportation authority may apply to the Board for an
23 order requiring the rail carrier to convey an interest to
24 the authority. The Board, not later than 120 days after

1 receiving the application, shall order the interest conveyed
2 if—

3 “(1) the mass transportation authority assumes
4 a reasonable allocation of costs associated with any
5 necessary relocation of a rail carrier’s trackage with-
6 in the right-of-way; and

7 “(2) the fixed guideway transportation purpose
8 of the proposed segregated fixed guideway facility
9 cannot be met adequately at a reasonable cost by ac-
10 quiring an interest in other property.

11 “(b) COMPENSATION AND TERMS.—A conveyance or-
12 dered by the Board under this section shall be subject to
13 the payment of just compensation and to such other rea-
14 sonable terms as the Board may prescribe.

15 **“§ 28504. Applicability of other laws**

16 “(a) BOARD REVIEW OR APPROVAL.—Operations or
17 conveyances undertaken pursuant to an order issued
18 under section 28502 or 28503 are not subject to Board
19 review or approval under subtitle IV of this title unless
20 the Board, on a case-by-case basis, has determined that
21 the mass transportation authority has assumed rights or
22 obligations under such order to provide transportation
23 subject to the jurisdiction of the Board under chapter 105.

24 “(b) CONTRACTUAL OBLIGATIONS FOR CLAIMS.—
25 Nothing in this chapter shall be construed to limit a rail

1 transportation provider’s right under section 28103(b) to
2 enter into contracts that allocate financial responsibility
3 for claims.

4 **“§ 28505. Standards for Board action**

5 “In proceedings under sections 28502 and 28503 the
6 Board shall utilize, to the extent relevant and feasible, the
7 principles, standards, and precedents utilized in pro-
8 ceedings under sections 24308 and 24311(c) involving the
9 National Railroad Passenger Corporation.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) LIMITATIONS ON RAIL PASSENGER TRANS-
12 PORTATION LIABILITY.—Section 28103(a) of title
13 49, United States Code, is amended by inserting “or
14 other fixed guideway transportation” after “com-
15 muter”.

16 (2) TABLE OF CHAPTERS.—The table of chap-
17 ters of subtitle V of title 49, United States Code, is
18 amended by adding after the item relating to chap-
19 ter 283 the following new item:

“285. RAIL TRANSIT ACCESS 28501”.

20 **SEC. 514. RAIL TRANSPORTATION POLICY.**

21 Section 10101 of title 49, United States Code, is
22 amended—

23 (1) by striking “and” at the end of paragraph
24 (14);

1 (2) by striking the period at the end of para-
2 graph (15) and inserting “; and”; and

3 (3) by adding at the end the following new
4 paragraph:

5 “(16) to encourage and promote the operation
6 of safe, efficient, and reliable commuter rail pas-
7 senger service and other fixed guideway transpor-
8 tation systems, including operations where the serv-
9 ice will share lines, corridors, or other facilities with
10 freight railroads or with intercity rail passenger
11 service.”.

12 **Subtitle C—Intercity Passenger**
13 **Rail and Rail Bond Program**

14 **SEC. 521. CAPITAL ASSISTANCE FOR INTERCITY PAS-**
15 **SENGER RAIL SERVICE; STATE RAIL PLANS.**

16 (a) IN GENERAL.—Part C of subtitle V of title 49,
17 United States Code, is amended by inserting the following
18 after chapter 243:

“CHAPTER 244—INTERCITY PASSENGER RAIL SERVICE CORRIDOR
CAPITAL ASSISTANCE

“Sec.

“24401. Definitions.

“24402. Capital investment grants to support intercity passenger rail service.

“24403. Project management oversight.

“24404. Use of capital grants to finance first-dollar liability of grant project.

“24405. Grant conditions.

“24406. Authorization of appropriations.

19 **“§ 24401. Definitions**

20 “In this chapter:

1 “(1) APPLICANT.—The term ‘applicant’ means
2 a State (including the District of Columbia), a group
3 of States, an Interstate Compact, or a public agency
4 established by one or more States and having re-
5 sponsibility for providing intercity passenger rail
6 service.

7 “(2) CAPITAL PROJECT.—The term ‘capital
8 project’ means a project or program in a State rail
9 plan developed under chapter 225 of this title for—

10 “(A) acquiring, constructing, improving, or
11 inspecting equipment or a facility for use in or
12 for the primary benefit of intercity passenger
13 rail service, expenses incidental to the acquisi-
14 tion or construction (including designing, engi-
15 neering, location surveying, mapping, environ-
16 mental studies, and acquiring rights-of-way),
17 payments for the capital portions of rail track-
18 age rights agreements, highway-rail grade
19 crossing improvements related to intercity pas-
20 senger rail service, security, mitigating environ-
21 mental impacts, communication and signaliza-
22 tion improvements, relocation assistance, ac-
23 quiring replacement housing sites, and acquir-
24 ing, constructing, relocating, and rehabilitating
25 replacement housing;

1 “(B) rehabilitating, remanufacturing or
2 overhauling rail rolling stock and facilities used
3 primarily in intercity passenger rail service;

4 “(C) costs associated with developing State
5 rail plans; and

6 “(D) the first-dollar liability costs for in-
7 surance related to the provision of intercity pas-
8 senger rail service under section 24404.

9 “(3) INTERCITY PASSENGER RAIL SERVICE.—
10 The term ‘intercity passenger rail service’ means
11 transportation services with the primary purpose of
12 passenger transportation between towns, cities and
13 metropolitan areas by rail, including high-speed rail,
14 as defined in section 24102.

15 **“§ 24402. Capital investment grants to support inter-**
16 **city passenger rail service**

17 “(a) GENERAL AUTHORITY.—

18 “(1) The Secretary of Transportation may
19 make grants under this section to an applicant to
20 assist in financing the capital costs of facilities and
21 equipment necessary to provide or improve intercity
22 passenger rail transportation.

23 “(2) The Secretary shall require that a grant
24 under this section be subject to the terms, condi-
25 tions, requirements, and provisions the Secretary de-

1 cides are necessary or appropriate for the purposes
2 of this section, including requirements for the dis-
3 position of net increases in value of real property re-
4 sulting from the project assisted under this section
5 and shall prescribe procedures and schedules for the
6 awarding of grants under this chapter, including ap-
7 plication and qualification procedures and a record
8 of decision on applicant eligibility. The Secretary
9 shall issue a final rule establishing such procedures
10 not later than 90 days after the date of enactment
11 of this chapter.

12 “(b) PROJECT AS PART OF STATE RAIL PLAN.—

13 “(1) The Secretary may not approve a grant for
14 a project under this section unless the Secretary
15 finds that the project is part of a State rail plan de-
16 veloped under chapter 225 of this title and that the
17 applicant or recipient has or will have the legal, fi-
18 nancial, and technical capacity to carry out the
19 project, satisfactory continuing control over the use
20 of the equipment or facilities, and the capability and
21 willingness to maintain the equipment or facilities.

22 “(2) An applicant shall provide sufficient infor-
23 mation upon which the Secretary can make the find-
24 ings required by this subsection.

1 “(3) If an applicant has not selected the pro-
2 posed operator of its service competitively, the appli-
3 cant shall provide written justification to the Sec-
4 retary showing why the proposed operator is the
5 best, taking into account price and other factors,
6 and that use of the proposed operator will not un-
7 necessarily increase the cost of the project.

8 “(c) PROJECT SELECTION CRITERIA.—The Sec-
9 retary, in selecting the recipients of financial assistance
10 to be provided under subsection (a), shall—

11 “(1) require that each proposed project meet all
12 safety and security requirements that are applicable
13 to the project under law;

14 “(2) give preference to projects with high levels
15 of estimated ridership, increased on-time perform-
16 ance, reduced trip time, additional service frequency,
17 or other significant service enhancements;

18 “(3) encourage intermodal connectivity through
19 projects that provide direct connections between
20 train stations, airports, bus terminals, subway sta-
21 tions, ferry ports, and other modes of transpor-
22 tation;

23 “(4) ensure that each project is compatible
24 with, and is operated in conformance with—

1 “(A) plans developed pursuant to the re-
2 quirements of section 135 of title 23, United
3 States Code; and

4 “(B) the national rail plan (if it is avail-
5 able); and

6 “(5) favor the following kinds of projects:

7 “(A) Projects that are expected to have a
8 significant favorable impact on air or highway
9 traffic congestion, capacity, or safety.

10 “(B) Projects that also improve freight or
11 commuter rail operations.

12 “(C) Projects that have significant envi-
13 ronmental benefits.

14 “(D) Projects that are—

15 “(i) at a stage of preparation that all
16 pre-commencement compliance with envi-
17 ronmental protection requirements has al-
18 ready been completed; and

19 “(ii) ready to be commenced.

20 “(E) Projects with positive economic and
21 employment impacts.

22 “(F) Projects that encourage the use of
23 positive train control technologies.

24 “(G) Projects that have commitments of
25 funding from non-Federal Government sources

1 in a total amount that exceeds the minimum
2 amount of the non-Federal contribution re-
3 quired for the project.

4 “(H) Projects that involve donated prop-
5 erty interests or services.

6 “(I) Projects that are identified by the
7 Surface Transportation Board as necessary to
8 improve the on time performance and reliability
9 of intercity passenger rail under section
10 24308(f).

11 “(d) AMTRAK ELIGIBILITY.—To receive a grant
12 under this section, the National Railroad Passenger Cor-
13 poration may enter into a cooperative agreement with 1
14 or more States to carry out 1 or more projects on a State
15 rail plan’s ranked list of rail capital projects developed
16 under section 22504(a)(5) of this title.

17 “(e) LETTERS OF INTENT, FULL FUNDING GRANT
18 AGREEMENTS, AND EARLY SYSTEMS WORK AGREE-
19 MENTS.—

20 “(1) The Secretary may issue a letter of intent
21 to an applicant announcing an intention to obligate,
22 for a major capital project under this section, an
23 amount from future available budget authority speci-
24 fied in law that is not more than the amount stipu-

1 lated as the financial participation of the Secretary
2 in the project.

3 “(2) The Secretary may make a full funding
4 grant agreement with an applicant. The agreement
5 shall—

6 “(A) establish the terms of participation by
7 the United States Government in a project
8 under this section;

9 “(B) establish the maximum amount of
10 Government financial assistance for the project;

11 “(C) cover the period of time for com-
12 pleting the project, including a period extending
13 beyond the period of an authorization; and

14 “(D) make timely and efficient manage-
15 ment of the project easier according to the law
16 of the United States.

17 “(3) The total estimated amount of future obli-
18 gations of the Government and contingent commit-
19 ments to incur obligations covered by all outstanding
20 letters of intent, full funding grant agreements, and
21 early systems work agreements may be not more
22 than the amount authorized under section 24406,
23 less an amount the Secretary reasonably estimates is
24 necessary for grants under this section not covered
25 by a letter. The total amount covered by new letters

1 and contingent commitments included in full funding
2 grant agreements and early systems work agree-
3 ments may be not more than a limitation specified
4 in law.

5 “(f) FEDERAL SHARE OF NET PROJECT COST.—

6 “(1)(A) Based on engineering studies, studies
7 of economic feasibility, and information on the ex-
8 pected use of equipment or facilities, the Secretary
9 shall estimate the net project cost.

10 “(B) A grant for the project shall not exceed 80
11 percent of the project net capital cost.

12 “(C) The Secretary shall give priority in allo-
13 cating future obligations and contingent commit-
14 ments to incur obligations to grant requests seeking
15 a lower Federal share of the project net capital cost.

16 “(2) 50 percent of the average amounts ex-
17 pended by a State or group of States (including the
18 District of Columbia) for capital projects to benefit
19 intercity passenger rail service in fiscal years 2006
20 and 2007 shall be credited towards the matching re-
21 quirements for grants awarded under this section.
22 The Secretary may require such information as nec-
23 essary to verify such expenditures.

24 “(3) 50 percent of the average amounts ex-
25 pended by a State or group of States (including the

1 District of Columbia) in a fiscal year beginning in
2 2008 for capital projects to benefit intercity pas-
3 senger rail service or for the operating costs of such
4 service above the average of expenditures made for
5 such service in fiscal years 2006 and 2007 shall be
6 credited towards the matching requirements for
7 grants awarded under this section. The Secretary
8 may require such information as necessary to verify
9 such expenditures.

10 “(g) UNDERTAKING PROJECTS IN ADVANCE.—

11 “(1) The Secretary may pay the Federal share
12 of the net capital project cost to an applicant that
13 carries out any part of a project described in this
14 section according to all applicable procedures and re-
15 quirements if—

16 “(A) the applicant applies for the payment;

17 “(B) the Secretary approves the payment;

18 and

19 “(C) before carrying out the part of the
20 project, the Secretary approves the plans and
21 specifications for the part in the same way as
22 other projects under this section.

23 “(2) The cost of carrying out part of a project
24 includes the amount of interest earned and payable
25 on bonds issued by the applicant to the extent pro-

1 ceeds of the bonds are expended in carrying out the
2 part. However, the amount of interest under this
3 paragraph may not be more than the most favorable
4 interest terms reasonably available for the project at
5 the time of borrowing. The applicant shall certify, in
6 a manner satisfactory to the Secretary, that the ap-
7 plicant has shown reasonable diligence in seeking the
8 most favorable financial terms.

9 “(3) The Secretary shall consider changes in
10 capital project cost indices when determining the es-
11 timated cost under paragraph (2) of this subsection.

12 “(h) 2-YEAR AVAILABILITY.—Funds appropriated
13 under this section shall remain available until expended.
14 If any amount provided as a grant under this section is
15 not obligated or expended for the purposes described in
16 subsection (a) within 2 years after the date on which the
17 State received the grant, such sums shall be returned to
18 the Secretary for other intercity passenger rail develop-
19 ment projects under this section at the discretion of the
20 Secretary.

21 “(i) PUBLIC-PRIVATE PARTNERSHIPS.—

22 “(1) IN GENERAL.—A metropolitan planning
23 organization, State transportation department, or
24 other project sponsor may enter into an agreement
25 with any public, private, or nonprofit entity to coop-

1 eratively implement any project funded with a grant
2 under this chapter.

3 “(2) FORMS OF PARTICIPATION.—Participation
4 by an entity under paragraph (1) may consist of—

5 “(A) ownership or operation of any land,
6 facility, locomotive, rail car, vehicle, or other
7 physical asset associated with the project;

8 “(B) cost-sharing of any project expense;

9 “(C) carrying out administration, construc-
10 tion management, project management, project
11 operation, or any other management or oper-
12 ational duty associated with the project; and

13 “(D) any other form of participation ap-
14 proved by the Secretary.

15 “(3) SUBALLOCATION.—A State may allocate
16 funds under this section to any entity described in
17 paragraph (1).

18 “(j) SPECIAL TRANSPORTATION CIRCUMSTANCES.—
19 In carrying out this section, the Secretary shall allocate
20 an appropriate portion of the amounts available under this
21 section to provide grants to States in which there is no
22 intercity passenger rail service for the purpose of funding
23 freight rail capital projects that are on a State rail plan
24 developed under chapter 225 of this title that provide pub-

1 lic benefits (as defined in chapter 225) as determined by
2 the Secretary.

3 **“§ 24403. Project management oversight**

4 “(a) PROJECT MANAGEMENT PLAN REQUIRE-
5 MENTS.—To receive Federal financial assistance for a
6 major capital project under this chapter, an applicant
7 must prepare and carry out a project management plan
8 approved by the Secretary of Transportation.

9 “(b) SECRETARIAL OVERSIGHT.—

10 “(1) The Secretary may use no more than 0.5
11 percent of amounts made available in a fiscal year
12 for capital projects under this chapter to enter into
13 contracts to oversee the construction of such
14 projects.

15 “(2) The Secretary may use amounts available
16 under paragraph (1) of this subsection to make con-
17 tracts for safety, procurement, management, and fi-
18 nancial compliance reviews and audits of a recipient
19 of amounts under paragraph (1).

20 “(3) The Federal Government shall pay the en-
21 tire cost of carrying out a contract under this sub-
22 section.

23 “(c) ACCESS TO SITES AND RECORDS.—Each recipi-
24 ent of assistance under this chapter shall provide the Sec-
25 retary and a contractor the Secretary chooses under sub-

1 section (b) of this section with access to the construction
2 sites and records of the recipient when reasonably nec-
3 essary.

4 **“§ 24404. Use of capital grants to finance first-dollar**
5 **liability of grant project**

6 “Notwithstanding the requirements of section 24402
7 of this chapter, the Secretary of Transportation may ap-
8 prove the use of capital assistance under this chapter to
9 fund self-insured retention of risk for the first tier of li-
10 ability insurance coverage for rail passenger service associ-
11 ated with the capital assistance grant, but the coverage
12 may not exceed \$20,000,000 per occurrence or
13 \$20,000,000 in aggregate per year.

14 **“§ 24405. Grant conditions**

15 “(a) DOMESTIC BUYING PREFERENCE.—

16 “(1) REQUIREMENT.—

17 “(A) IN GENERAL.—In carrying out a
18 project funded in whole or in part with a grant
19 under this chapter, the grant recipient shall
20 purchase only—

21 “(i) unmanufactured articles, mate-
22 rial, and supplies mined or produced in the
23 United States; or

24 “(ii) manufactured articles, material,
25 and supplies manufactured in the United

1 States substantially from articles, material,
2 and supplies mined, produced, or manufac-
3 tured in the United States.

4 “(B) DE MINIMIS AMOUNT.—Subpara-
5 graph (A) applies only to a purchase in an total
6 amount that is not less than \$1,000,000.

7 “(2) EXEMPTIONS.—On application of a recipi-
8 ent, the Secretary may exempt a recipient from the
9 requirements of this subsection if the Secretary de-
10 cides that, for particular articles, material, or sup-
11 plies—

12 “(A) such requirements are inconsistent
13 with the public interest;

14 “(B) the cost of imposing the requirements
15 is unreasonable; or

16 “(C) the articles, material, or supplies, or
17 the articles, material, or supplies from which
18 they are manufactured, are not mined, pro-
19 duced, or manufactured in the United States in
20 sufficient and reasonably available commercial
21 quantities and are not of a satisfactory quality.

22 “(3) UNITED STATES DEFINED.—In this sub-
23 section, the term ‘the United States’ means the
24 States, territories, and possessions of the United
25 States and the District of Columbia.

1 “(b) OPERATORS DEEMED RAIL CARRIERS AND EM-
2 PLOYERS FOR CERTAIN PURPOSES.—A person that con-
3 ducts rail operations over rail infrastructure constructed
4 or improved with funding provided in whole or in part in
5 a grant made under this chapter—

6 “(1) shall be considered an employer for pur-
7 poses of the Railroad Retirement Act of 1974 (45
8 U.S.C. 231 et seq.); and

9 “(2) shall be considered a carrier for purposes
10 of the Railway Labor Act (43 U.S.C. 151 et seq.).

11 “(c) GRANT CONDITIONS.—The Secretary shall re-
12 quire as a condition of making any grant under this chap-
13 ter that includes the improvement or use of rights-of-way
14 owned by a railroad that—

15 “(1) a written agreement exist between the ap-
16 plicant and the railroad regarding such use and
17 ownership, including—

18 “(A) any compensation for such use;

19 “(B) assurances regarding the adequacy of
20 infrastructure capacity to accommodate both
21 existing and future freight and passenger oper-
22 ations; and

23 “(C) an assurance by the railroad that col-
24 lective bargaining agreements with the rail-
25 road’s employees (including terms regulating

1 the contracting of work) will remain in full
2 force and effect according to their terms for
3 work performed by the railroad on the railroad
4 transportation corridor; and

5 “(2) the applicant agrees to comply with—

6 “(A) the standards of section 24312 of this
7 title, as such section was in effect on September
8 1, 2003, with respect to the project in the same
9 manner that the National Railroad Passenger
10 Corporation is required to comply with those
11 standards for construction work financed under
12 an agreement made under section 24308(a) of
13 this title; and

14 “(B) the protective arrangements estab-
15 lished under section 504 of the Railroad Revi-
16 talization and Regulatory Reform Act of 1976
17 (45 U.S.C. 836) with respect to employees af-
18 fected by actions taken in connection with the
19 project to be financed in whole or in part by
20 grants under this chapter.

21 “(d) REPLACEMENT OF EXISTING INTERCITY PAS-
22 Senger Rail Service.—

23 “(1) COLLECTIVE BARGAINING AGREEMENT
24 FOR INTERCITY PASSENGER RAIL PROJECTS.—Any
25 entity providing intercity passenger railroad trans-

1 portation that begins operations after the date of en-
2 actment of this Act on a project funded in whole or
3 in part by grants made under this chapter and re-
4 places intercity rail passenger service that was pro-
5 vided by Amtrak, unless such service was provided
6 solely by Amtrak to another entity, as of such date
7 shall enter into an agreement with the authorized
8 bargaining agent or agents for adversely affected
9 employees of the predecessor provider that—

10 “(A) gives each such qualified employee of
11 the predecessor provider priority in hiring ac-
12 cording to the employee’s seniority on the pred-
13 ecessor provider for each position with the re-
14 placing entity that is in the employee’s craft or
15 class and is available within 3 years after the
16 termination of the service being replaced;

17 “(B) establishes a procedure for notifying
18 such an employee of such positions;

19 “(C) establishes a procedure for such an
20 employee to apply for such positions; and

21 “(D) establishes rates of pay, rules, and
22 working conditions.

23 “(2) IMMEDIATE REPLACEMENT SERVICE.—

24 “(A) NEGOTIATIONS.—If the replacement
25 of preexisting intercity rail passenger service oc-

1 curs concurrent with or within a reasonable
2 time before the commencement of the replacing
3 entity's rail passenger service, the replacing en-
4 tity shall give written notice of its plan to re-
5 place existing rail passenger service to the au-
6 thorized collective bargaining agent or agents
7 for the potentially adversely affected employees
8 of the predecessor provider at least 90 days be-
9 fore the date on which it plans to commence
10 service. Within 5 days after the date of receipt
11 of such written notice, negotiations between the
12 replacing entity and the collective bargaining
13 agent or agents for the employees of the prede-
14 cessor provider shall commence for the purpose
15 of reaching agreement with respect to all mat-
16 ters set forth in subparagraphs (A) through (D)
17 of paragraph (1). The negotiations shall con-
18 tinue for 30 days or until an agreement is
19 reached, whichever is sooner. If at the end of
20 30 days the parties have not entered into an
21 agreement with respect to all such matters, the
22 unresolved issues shall be submitted for arbitra-
23 tion in accordance with the procedure set forth
24 in subparagraph (B).

1 “(B) ARBITRATION.—If an agreement has
2 not been entered into with respect to all mat-
3 ters set forth in subparagraphs (A) through (D)
4 of paragraph (1) as described in subparagraph
5 (A) of this paragraph, the parties shall select
6 an arbitrator. If the parties are unable to agree
7 upon the selection of such arbitrator within 5
8 days, either or both parties shall notify the Na-
9 tional Mediation Board, which shall provide a
10 list of seven arbitrators with experience in arbi-
11 trating rail labor protection disputes. Within 5
12 days after such notification, the parties shall al-
13 ternately strike names from the list until only
14 1 name remains, and that person shall serve as
15 the neutral arbitrator. Within 45 days after se-
16 lection of the arbitrator, the arbitrator shall
17 conduct a hearing on the dispute and shall
18 render a decision with respect to the unresolved
19 issues among the matters set forth in subpara-
20 graphs (A) through (D) of paragraph (1). This
21 decision shall be final, binding, and conclusive
22 upon the parties. The salary and expenses of
23 the arbitrator shall be borne equally by the par-
24 ties; all other expenses shall be paid by the
25 party incurring them.

1 “(3) SERVICE COMMENCEMENT.—A replacing
2 entity under this subsection shall commence service
3 only after an agreement is entered into with respect
4 to the matters set forth in subparagraphs (A)
5 through (D) of paragraph (1) or the decision of the
6 arbitrator has been rendered.

7 “(4) SUBSEQUENT REPLACEMENT OF SERV-
8 ICE.—If the replacement of existing rail passenger
9 service takes place within 3 years after the replacing
10 entity commences intercity passenger rail service,
11 the replacing entity and the collective bargaining
12 agent or agents for the adversely affected employees
13 of the predecessor provider shall enter into an agree-
14 ment with respect to the matters set forth in sub-
15 paragraphs (A) through (D) of paragraph (1). If the
16 parties have not entered into an agreement with re-
17 spect to all such matters within 60 days after the
18 date on which the replacing entity replaces the pred-
19 ecessor provider, the parties shall select an arbi-
20 trator using the procedures set forth in paragraph
21 (2)(B), who shall, within 20 days after the com-
22 mencement of the arbitration, conduct a hearing and
23 decide all unresolved issues. This decision shall be
24 final, binding, and conclusive upon the parties.

1 “(e) INAPPLICABILITY TO CERTAIN RAIL OPER-
2 ATIONS.—Nothing in this section applies to—

3 “(1) commuter rail passenger transportation
4 (as defined in section 24102(4) of this title) oper-
5 ations of a State or local government authority (as
6 those terms are defined in section 5302(11) and (6),
7 respectively, of this title) eligible to receive financial
8 assistance under section 5307 of this title, or to its
9 contractor performing services in connection with
10 commuter rail passenger operations (as so defined);
11 or

12 “(2) the National Railroad Passenger Corpora-
13 tion’s access rights to railroad rights of way and fa-
14 cilities under current law for projects funded under
15 this chapter where train operating speeds do not ex-
16 ceed 79 miles per hour.

17 **“§ 24406. Authorization of appropriations.**

18 “There are authorized to be appropriated to the Sec-
19 retary of Transportation for carrying out this chapter
20 \$200,000,000 for each of the fiscal years 2008 through
21 2012.”.

22 (b) CONFORMING AMENDMENTS.—The table of chap-
23 ters for subtitle V of title 49, United States Code, is
24 amended by inserting the following after the item relating
25 to chapter 243:

“244. INTERCITY PASSENGER RAIL SERVICE CAPITAL ASSISTANCE 24401”.

1 **SEC. 522. STATE RAIL PLANS.**

2 (a) IN GENERAL.—Part B of subtitle V of title 49,
3 United States Code, is amended by adding at the end the
4 following:

5 **“CHAPTER 225—STATE RAIL PLANS AND**
6 **HIGH PRIORITY PROJECTS**

“Sec.
“22501. Definitions.
“22502. Authority.
“22503. Purposes.
“22504. Transparency; coordination; review.
“22505. Content.
“22506. Review.

7 **“§ 22501. Definitions**

8 “In this subchapter:

9 “(1) PRIVATE BENEFIT.—

10 “(A) IN GENERAL.—The term ‘private
11 benefit’—

12 “(i) means a benefit accrued to a per-
13 son or private entity, other than the Na-
14 tional Railroad Passenger Corporation,
15 that directly improves the economic and
16 competitive condition of that person or en-
17 tity through improved assets, cost reduc-
18 tions, service improvements, or any other
19 means as defined by the Secretary; and

1 “(ii) shall be determined on a project-
2 by-project basis, based upon an agreement
3 between the parties.

4 “(B) CONSULTATION.—The Secretary may
5 seek the advice of the States and rail carriers
6 in further defining this term.

7 “(2) PUBLIC BENEFIT.—

8 “(A) IN GENERAL.—The term ‘public ben-
9 efit’—

10 “(i) means a benefit accrued to the
11 public in the form of enhanced mobility of
12 people or goods, environmental protection
13 or enhancement, congestion mitigation, en-
14 hanced trade and economic development,
15 improved air quality or land use, more effi-
16 cient energy use, enhanced public safety or
17 security, reduction of public expenditures
18 due to improved transportation efficiency
19 or infrastructure preservation, and any
20 other positive community effects as defined
21 by the Secretary; and

22 “(ii) shall be determined on a project-
23 by-project basis, based upon an agreement
24 between the parties.

1 “(B) CONSULTATION.—The Secretary may
2 seek the advice of the States and rail carriers
3 in further defining this term.

4 “(3) STATE.—The term ‘State’ means any of
5 the 50 States and the District of Columbia.

6 “(4) STATE RAIL TRANSPORTATION AUTHOR-
7 ITY.—The term ‘State rail transportation authority’
8 means the State agency or official responsible under
9 the direction of the Governor of the State or a State
10 law for preparation, maintenance, coordination, and
11 administration of the State rail plan.

12 **“§ 22502. Authority**

13 “(a) IN GENERAL.—Each State may prepare and
14 maintain a State rail plan in accordance with the provi-
15 sions of this subchapter.

16 “(b) REQUIREMENTS.—For the preparation and peri-
17 odic revision of a State rail plan, a State shall—

18 “(1) establish or designate a State rail trans-
19 portation authority to prepare, maintain, coordinate,
20 and administer the plan;

21 “(2) establish or designate a State rail plan ap-
22 proval authority to approve the plan;

23 “(3) submit the State’s approved plan to the
24 Secretary of Transportation for review; and

1 “(4) revise and resubmit a State-approved plan
2 no less frequently than once every 5 years for re-
3 approval by the Secretary.

4 **“§ 22503. Purposes**

5 “(a) PURPOSES.—The purposes of a State rail plan
6 are as follows:

7 “(1) To set forth State policy involving freight
8 and passenger rail transportation, including com-
9 muter rail operations, in the State.

10 “(2) To establish the period covered by the
11 State rail plan.

12 “(3) To present priorities and strategies to en-
13 hance rail service in the State that benefits the pub-
14 lic.

15 “(4) To serve as the basis for Federal and
16 State rail investments within the State.

17 “(b) COORDINATION.—A State rail plan shall be co-
18 ordinated with other State transportation planning goals
19 and programs and set forth rail transportation’s role with-
20 in the State transportation system.

21 **“§ 22504. Transparency; coordination; review**

22 “(a) PREPARATION.—A State shall provide adequate
23 and reasonable notice and opportunity for comment and
24 other input to the public, rail carriers, commuter and tran-
25 sit authorities operating in, or affected by rail operations

1 within the State, units of local government, and other in-
2 terested parties in the preparation and review of its State
3 rail plan.

4 “(b) INTERGOVERNMENTAL COORDINATION.—A
5 State shall review the freight and passenger rail service
6 activities and initiatives by regional planning agencies, re-
7 gional transportation authorities, and municipalities with-
8 in the State, or in the region in which the State is located,
9 while preparing the plan, and shall include any rec-
10 ommendations made by such agencies, authorities, and
11 municipalities as deemed appropriate by the State.

12 **“§ 22505. Content**

13 “(a) IN GENERAL.—Each State rail plan shall con-
14 tain the following:

15 “(1) An inventory of the existing overall rail
16 transportation system and rail services and facilities
17 within the State and an analysis of the role of rail
18 transportation within the State’s surface transpor-
19 tation system.

20 “(2) A review of all rail lines within the State,
21 including proposed high speed rail corridors and sig-
22 nificant rail line segments not currently in service.

23 “(3) A statement of the State’s passenger rail
24 service objectives, including minimum service levels,
25 for rail transportation routes in the State.

1 “(4) A general analysis of rail’s transportation,
2 economic, and environmental impacts in the State,
3 including congestion mitigation, trade and economic
4 development, air quality, land-use, energy-use, and
5 community impacts.

6 “(5) A long-range rail investment program for
7 current and future freight and passenger infrastruc-
8 ture in the State that meets the requirements of
9 subsection (b).

10 “(6) A statement of public financing issues for
11 rail projects and service in the State, including a list
12 of current and prospective public capital and oper-
13 ating funding resources, public subsidies, State tax-
14 ation, and other financial policies relating to rail in-
15 frastructure development.

16 “(7) An identification of rail infrastructure
17 issues within the State that reflects consultation
18 with all relevant stake holders.

19 “(8) A review of major passenger and freight
20 intermodal rail connections and facilities within the
21 State, including seaports, and prioritized options to
22 maximize service integration and efficiency between
23 rail and other modes of transportation within the
24 State.

1 “(9) A review of publicly funded projects within
2 the State to improve rail transportation safety and
3 security, including all major projects funded under
4 section 130 of title 23.

5 “(10) A performance evaluation of passenger
6 rail services operating in the State, including pos-
7 sible improvements in those services, and a descrip-
8 tion of strategies to achieve those improvements.

9 “(11) A compilation of studies and reports on
10 high-speed rail corridor development within the
11 State not included in a previous plan under this sub-
12 chapter, and a plan for funding any recommended
13 development of such corridors in the State.

14 “(12) A statement that the State is in compli-
15 ance with the requirements of section 22102.

16 “(b) LONG-RANGE SERVICE AND INVESTMENT PRO-
17 GRAM.—

18 “(1) PROGRAM CONTENT.—A long-range rail
19 investment program included in a State rail plan
20 under subsection (a)(5) shall include the following
21 matters:

22 “(A) A list of any rail capital projects ex-
23 pected to be undertaken or supported in whole
24 or in part by the State.

1 “(B) A detailed funding plan for those
2 projects.

3 “(2) PROJECT LIST CONTENT.—The list of rail
4 capital projects shall contain—

5 “(A) a description of the anticipated public
6 and private benefits of each such project; and

7 “(B) a statement of the correlation be-
8 tween—

9 “(i) public funding contributions for
10 the projects; and

11 “(ii) the public benefits.

12 “(3) CONSIDERATIONS FOR PROJECT LIST.—In
13 preparing the list of freight and intercity passenger
14 rail capital projects, a State rail transportation au-
15 thority should take into consideration the following
16 matters:

17 “(A) Contributions made by non-Federal
18 and non-State sources through user fees,
19 matching funds, or other private capital involve-
20 ment.

21 “(B) Rail capacity and congestion effects.

22 “(C) Effects to highway, aviation, and
23 maritime capacity, congestion, or safety.

24 “(D) Regional balance.

25 “(E) Environmental impact.

1 “(F) Economic and employment impacts.

2 “(G) Projected ridership and other service
3 measures for passenger rail projects.

4 **“§ 22506. Review**

5 “The Secretary shall prescribe procedures for States
6 to submit State rail plans for review under this title, in-
7 cluding standardized format and data requirements.”.

8 (b) CONFORMING AMENDMENT.—The table of chap-
9 ters for subtitle V of title 49, United States Code, is
10 amended by inserting the following after the item relating
11 to chapter 223:

“225. STATE RAIL PLANS 22501”.

12 **SEC. 523. RAIL COOPERATIVE RESEARCH PROGRAM.**

13 (a) ESTABLISHMENT AND CONTENT.—Chapter 249
14 of title 49, United States Code, is amended by adding at
15 the end the following:

16 **“§ 24910. Rail cooperative research program**

17 “(a) IN GENERAL.—The Secretary shall establish
18 and carry out a rail cooperative research program. The
19 program shall—

20 “(1) address, among other matters, intercity
21 rail passenger and freight rail services, including ex-
22 isting rail passenger and freight technologies and
23 speeds, incrementally enhanced rail systems and in-
24 frastructure, and new high-speed wheel-on-rail sys-
25 tems and rail security;

1 “(2) address ways to expand the transportation
2 of international trade traffic by rail, enhance the ef-
3 ficiency of intermodal interchange at ports and other
4 intermodal terminals, and increase capacity and
5 availability of rail service for seasonal freight needs;

6 “(3) consider research on the interconnected-
7 ness of commuter rail, passenger rail, freight rail,
8 and other rail networks; and

9 “(4) give consideration to regional concerns re-
10 garding rail passenger and freight transportation,
11 including meeting research needs common to des-
12 ignated high-speed corridors, long-distance rail serv-
13 ices, and regional intercity rail corridors, projects,
14 and entities.

15 “(b) CONTENT.—The program to be carried out
16 under this section shall include research designed—

17 “(1) to identify the unique aspects and at-
18 tributes of rail passenger and freight service;

19 “(2) to develop more accurate models for evalu-
20 ating the impact of rail passenger and freight serv-
21 ice, including the effects on highway and airport and
22 airway congestion, environmental quality, and energy
23 consumption;

24 “(3) to develop a better understanding of modal
25 choice as it affects rail passenger and freight trans-

1 portation, including development of better models to
2 predict utilization;

3 “(4) to recommend priorities for technology
4 demonstration and development;

5 “(5) to meet additional priorities as determined
6 by the advisory board established under subsection
7 (c), including any recommendations made by the Na-
8 tional Research Council;

9 “(6) to explore improvements in management,
10 financing, and institutional structures;

11 “(7) to address rail capacity constraints that
12 affect passenger and freight rail service through a
13 wide variety of options, ranging from operating im-
14 provements to dedicated new infrastructure, taking
15 into account the impact of such options on oper-
16 ations;

17 “(8) to improve maintenance, operations, cus-
18 tomer service, or other aspects of intercity rail pas-
19 senger and freight service;

20 “(9) to recommend objective methodologies for
21 determining intercity passenger rail routes and serv-
22 ices, including the establishment of new routes, the
23 elimination of existing routes, and the contraction or
24 expansion of services or frequencies over such
25 routes;

1 “(10) to review the impact of equipment and
2 operational safety standards on the further develop-
3 ment of high speed passenger rail operations con-
4 nected to or integrated with non-high speed freight
5 or passenger rail operations; and

6 “(11) to recommend any legislative or regu-
7 latory changes necessary to foster further develop-
8 ment and implementation of high speed passenger
9 rail operations while ensuring the safety of such op-
10 erations that are connected to or integrated with
11 non-high speed freight or passenger rail operations.

12 “(c) ADVISORY BOARD.—

13 “(1) ESTABLISHMENT.—In consultation with
14 the heads of appropriate Federal departments and
15 agencies, the Secretary shall establish an advisory
16 board to recommend research, technology, and tech-
17 nology transfer activities related to rail passenger
18 and freight transportation.

19 “(2) MEMBERSHIP.—The advisory board shall
20 include—

21 “(A) representatives of State transpor-
22 tation agencies;

23 “(B) transportation and environmental
24 economists, scientists, and engineers; and

1 “(C) representatives of Amtrak, the Alaska
2 Railroad, freight railroads, transit operating
3 agencies, intercity rail passenger agencies, rail-
4 way labor organizations, and environmental or-
5 ganizations.

6 “(d) NATIONAL ACADEMY OF SCIENCES.—The Sec-
7 retary may make grants to, and enter into cooperative
8 agreements with, the National Academy of Sciences to
9 carry out such activities relating to the research, tech-
10 nology, and technology transfer activities described in sub-
11 section (b) as the Secretary deems appropriate.”.

12 (b) CLERICAL AMENDMENT.—The chapter analysis
13 for chapter 249 is amended by adding at the end the fol-
14 lowing:

 “24910. Rail cooperative research program.”.

15 **SEC. 524. HIGH-SPEED INTERCITY RAIL FACILITY BONDS.**

16 (a) AMENDMENT.—Chapter 261 of title 49, United
17 States Code, is amended by adding at the end the fol-
18 lowing new section:

19 **“§ 26106. High-speed rail infrastructure bonds**

20 “(a) DESIGNATION.—The Secretary may designate
21 bonds for purposes of subsection (f) or section 54A of the
22 Internal Revenue Code of 1986 if—

23 “(1) the bonds are to be issued by—

24 “(A) a State, if the entire railroad pas-
25 senger transportation corridor containing the

1 infrastructure project to be financed is within
2 the State;

3 “(B) 1 or more of the States that have en-
4 tered into an agreement or an interstate com-
5 pact consented to by Congress under section
6 410(a) of Public Law 105–134 (49 U.S.C.
7 24101 nt); or

8 “(C) an agreement or an interstate com-
9 pact described in subparagraph (B);

10 “(2) the bonds are for the purpose of financ-
11 ing—

12 “(A) projects that make a substantial con-
13 tribution to providing the infrastructure and
14 equipment required to complete a high-speed
15 rail transportation corridor (including projects
16 for the acquisition, financing, or refinancing of
17 equipment and other capital improvements, in-
18 cluding the introduction of new high-speed tech-
19 nologies such as magnetic levitation systems,
20 track or signal improvements, the elimination of
21 grade crossings, development of intermodal fa-
22 cilities, improvement of train speeds or safety,
23 or both, and station rehabilitation or construc-
24 tion), but only if the Secretary determines that
25 the projects are part of a viable and comprehen-

1 sive high-speed rail transportation corridor de-
2 sign for intercity passenger service, including a
3 design for minimally operable segments of a
4 corridor designated under section 104(d)(2) of
5 title 23, United States Code; or

6 “(B) projects for the Alaska Railroad;

7 “(3) for a railroad passenger transportation
8 corridor design that includes the use of rights-of-way
9 owned by a freight railroad, a written agreement ex-
10 ists between the applicant and the freight railroad
11 regarding such use and ownership, including com-
12 pensation for such use and assurances regarding the
13 adequacy of infrastructure capacity to accommodate
14 both existing and future freight and passenger oper-
15 ations, and including an assurance by the freight
16 railroad that collective bargaining agreements with
17 the freight railroad’s employees (including terms
18 regulating the contracting of work) shall remain in
19 full force and effect according to their terms for
20 work performed by the freight railroad on such rail-
21 road passenger transportation corridor;

22 “(4) the corridor design eliminates existing rail-
23 way-highway grade crossings that the Secretary de-
24 termines would impede high-speed rail operations;

25 “(5) the applicant agrees to comply with—

1 “(A) the standards of section 24312, as in
2 effect on September 1, 2002, with respect to
3 the project in the same manner that the Na-
4 tional Railroad Passenger Corporation is re-
5 quired to comply with such standards for con-
6 struction work financed under an agreement
7 made under section 24308(a); and

8 “(B) the protective arrangements estab-
9 lished under section 504 of the Railroad Revi-
10 talization and Regulatory Reform Act of 1976
11 (45 U.S.C. 836) with respect to employees af-
12 fected by actions taken in connection with the
13 project to be financed by the bond; and

14 “(6) the applicant agrees not to pay the prin-
15 cipal or interest on the bonds using funds derived di-
16 rectly or indirectly from the Highway Trust Fund,
17 except as permitted by law as of the date of the en-
18 actment of this section.

19 “(b) BOND AMOUNT LIMITATION.—

20 “(1) IN GENERAL.—The amount of bonds des-
21 ignated under this section may not exceed—

22 “(A) in the case of subsection (f) bonds,
23 \$1,200,000,000 for each of the fiscal years
24 2008 through 2017; and

1 “(B) in the case of section 54A bonds,
2 \$1,200,000,000 for each of the fiscal years
3 2008 through 2017.

4 “(2) CARRYOVER OF UNUSED LIMITATION.—If
5 for any fiscal year the limitation amount under sub-
6 paragraph (A) or (B) of paragraph (1) exceeds—

7 “(A) with respect to subparagraph (A) of
8 paragraph (1), the amount of subsection (f)
9 bonds issued during such year; or

10 “(B) with respect to subparagraph (B) of
11 paragraph (1), the amount of section 54A
12 bonds issued during such year,

13 the limitation amount under subparagraph (A) or
14 (B) of paragraph (1), as the case may be, for the
15 following fiscal year (through fiscal year 2021) shall
16 be increased by the amount of such excess.

17 “(c) PREFERENCE.—The Secretary shall give pref-
18 erence to the designation under this section of bonds for
19 projects—

20 “(1) to be funded through a combination of
21 subsection (f) bonds and section 54A bonds;

22 “(2) which propose to link rail passenger serv-
23 ice with other modes of transportation;

24 “(3) expected to have a significant impact on
25 air traffic congestion;

1 “(4) expected to also improve commuter rail op-
2 erations;

3 “(5) where all environmental work has already
4 been completed and the project is ready to com-
5 mence; or

6 “(6) that have received financial commitments
7 and other support of State and local governments.

8 “(d) TIMELY DISPOSITION OF APPLICATION.—The
9 Secretary shall grant or deny a requested designation
10 within 9 months after receipt of an application.

11 “(e) ANNUAL REPORTS.—

12 “(1) FROM ISSUER OF BONDS.—The issuer of
13 bonds designated under subsection (a) shall report
14 annually to the Secretary regarding the terms of
15 outstanding designated bonds and the progress made
16 with respect to the project financed by the bonds.

17 “(2) FROM SECRETARY.—The Secretary, in
18 consultation with the Secretary of the Treasury,
19 shall transmit to the Congress an annual report
20 which includes—

21 “(A) reports received under paragraph (1);
22 and

23 “(B) an assessment of the progress made
24 toward completion of high-speed rail transpor-

1 tation corridors resulting from projects financed
2 by bonds designated under subsection (a).

3 “(f) TAX TREATMENT OF SUBSECTION (f) BONDS.—

4 “(1) EXCLUSION FROM GROSS INCOME.—The
5 interest on a bond designated by the Secretary
6 under subsection (a) for purposes of this subsection
7 shall be excluded from gross income under section
8 103 of the Internal Revenue Code of 1986, notwith-
9 standing section 149(c) of such Code.

10 “(2) EXEMPTION FROM VOLUME CAP.—For
11 purposes of section 146 of such Code, a bond des-
12 ignated by the Secretary under subsection (a) for
13 purposes of this subsection shall be considered to be
14 exempt from the volume cap of the issuing authority
15 in the same manner as bonds listed in subsection (g)
16 of such section 146.

17 “(g) REFINANCING RULES.—Bonds designated by
18 the Secretary under subsection (a) may be issued for refi-
19 nancing projects only if the indebtedness being refinanced
20 (including any obligation directly or indirectly refinanced
21 by such indebtedness) was originally incurred by the
22 issuer—

23 “(1) after the date of the enactment of this sec-
24 tion;

25 “(2) for a term of not more than 3 years;

1 “(3) to finance projects described in subsection
2 (a)(2); and

3 “(4) in anticipation of being refinanced with
4 proceeds of a bond designated under subsection (a).

5 “(h) PROVISIONS REGARDING HIGH-SPEED RAIL
6 SERVICE.—

7 “(1) STATUS AS EMPLOYER OR CARRIER.—Any
8 entity providing railroad transportation (within the
9 meaning of section 20102) that begins operations
10 after the date of the enactment of this section and
11 that uses property acquired pursuant to this section
12 (except as provided in subsection (a)(2)(B)), shall be
13 considered an employer for purposes of the Railroad
14 Retirement Act of 1974 (45 U.S.C. 231 et seq.) and
15 considered a carrier for purposes of the Railway
16 Labor Act (45 U.S.C. 151 et seq.).

17 “(2) COLLECTIVE BARGAINING AGREEMENT.—
18 Any entity providing high-speed intercity passenger
19 railroad transportation (within the meaning of sec-
20 tion 20102) that begins operations after the date of
21 enactment of this section on a project funded in
22 whole or in part by bonds designated under sub-
23 section (a), and replaces intercity rail passenger
24 service that was provided by another entity as of the
25 date of enactment of this section, shall enter into an

1 agreement with the authorized bargaining agent or
2 agents for employees of the predecessor provider
3 that—

4 “(A) gives each employee of the prede-
5 cessor provider priority in hiring according to
6 the employee’s seniority on the predecessor pro-
7 vider for each position with the replacing entity
8 that is in the employee’s craft or class and is
9 available within three years after the termi-
10 nation of the service being replaced;

11 “(B) establishes a procedure for notifying
12 such an employee of such positions;

13 “(C) establishes a procedure for such an
14 employee to apply for such positions; and

15 “(D) establishes rates of pay, rules, and
16 working conditions.

17 “(3) IMMEDIATE REPLACEMENT OF EXISTING
18 RAIL PASSENGER SERVICE.—

19 “(A) NEGOTIATIONS.—If the replacement
20 of preexisting intercity rail passenger service oc-
21 curs concurrent with or within a reasonable
22 amount of time before the commencement of
23 the replacing entity’s high-speed rail passenger
24 service, the replacing entity shall give written
25 notice of its plan to replace existing rail pas-

1 senger service to the authorized collective bar-
2 gaining agent or agents for the employees of
3 the predecessor provider at least 90 days prior
4 to the date it plans to commence service. With-
5 in 5 days after the date of receipt of such writ-
6 ten notice, negotiations between the replacing
7 entity and the collective bargaining agent or
8 agents for the employees of the predecessor pro-
9 vider shall commence for the purpose of reach-
10 ing agreement with respect to all matters set
11 forth in paragraph (2) (A)–(D). The negotia-
12 tions shall continue for 30 days or until an
13 agreement is reached, whichever is sooner. If at
14 the end of 30 days the parties have not entered
15 into an agreement with respect to all such mat-
16 ters, the unresolved issues shall be submitted
17 for arbitration in accordance with the procedure
18 set forth in subparagraph (B).

19 “(B) ARBITRATION.—If an agreement has
20 not been entered into with respect to all mat-
21 ters set forth in paragraph (2) (A)–(D) as pro-
22 vided in subparagraph (A) of this paragraph,
23 the parties shall select an arbitrator. If the par-
24 ties are unable to agree upon the selection of
25 such arbitrator within 5 days, either or both

1 parties shall notify the National Mediation
2 Board, which shall provide a list of seven arbi-
3 trators with experience in arbitrating rail labor
4 protection disputes. Within 5 days after such
5 notification, the parties shall alternately strike
6 names from the list until only one name re-
7 mains, and that person shall serve as the neu-
8 tral arbitrator. Within 45 days after selection of
9 the arbitrator, the arbitrator shall conduct a
10 hearing on the dispute and shall render a deci-
11 sion with respect to the unresolved issues set
12 forth in paragraph (2) (A)–(D). This decision
13 shall be final, binding, and conclusive upon the
14 parties. The salary and expenses of the arbi-
15 trator shall be borne equally by the parties; all
16 other expenses shall be paid by the party incur-
17 ring them.

18 “(C) SERVICE COMMENCEMENT.—A re-
19 placing entity under this paragraph shall com-
20 mence service only after an agreement is en-
21 tered into with respect to the matters set forth
22 in paragraph (2) (A)–(D) or the decision of the
23 arbitrator has been rendered.

24 “(4) SUBSEQUENT REPLACEMENT OF EXISTING
25 RAIL PASSENGER SERVICE.—If the replacement of

1 existing rail passenger service takes place within 3
2 years after the replacing entity commences high-
3 speed rail passenger service, the replacing entity and
4 the collective bargaining agent or agents for the em-
5 ployees of the predecessor provider shall enter into
6 an agreement with respect to the matters set forth
7 in paragraph (2) (A)–(D). If the parties have not
8 entered into an agreement with respect to all such
9 matters within 60 days after the date on which the
10 replacing entity replaces the predecessor provider,
11 the parties shall select an arbitrator using the proce-
12 dures set forth in paragraph (3)(B), who shall, with-
13 in 20 days after the commencement of the arbitra-
14 tion, conduct a hearing and decide all unresolved
15 issues. This decision shall be final, binding, and con-
16 clusive upon the parties.

17 “(i) ISSUANCE OF REGULATIONS.—Not later than 6
18 months after the date of the enactment of this section,
19 the Secretary shall issue regulations for carrying out this
20 section.

21 “(j) DEFINITIONS.—For purposes of this section—

22 “(1) SUBSECTION (f) BOND.—The term ‘sub-
23 section (f) bond’ means a bond designated by the
24 Secretary under subsection (a) for purposes of sub-
25 section (f).

1 “(2) SECTION 54A BOND.—The term ‘section
2 54A bond’ means a bond designated by the Sec-
3 retary under subsection (a) for purposes of section
4 54A of the Internal Revenue Code of 1986 (relating
5 to credit to holders of qualified high-speed rail infra-
6 structure bonds).”.

7 (b) TABLE OF SECTIONS AMENDMENT.—The table of
8 sections of chapter 261 of title 49, United States Code,
9 is amended by adding after the item relating to section
10 26105 the following new item:

 “26106. High-speed rail infrastructure bonds.”.

11 **SEC. 525. TAX CREDIT TO HOLDERS OF QUALIFIED HIGH-**
12 **SPEED RAIL INFRASTRUCTURE BONDS.**

13 (a) IN GENERAL.—Subpart H of part IV of sub-
14 chapter A of chapter 1 of the Internal Revenue Code of
15 1986 (relating to credits against tax) is amended by add-
16 ing at the end the following new section:

17 **“SEC. 54A. CREDIT TO HOLDERS OF QUALIFIED HIGH-**
18 **SPEED RAIL INFRASTRUCTURE BONDS.**

19 “(a) ALLOWANCE OF CREDIT.—If a taxpayer holds
20 a qualified high-speed rail infrastructure bond on one or
21 more credit allowance dates of the bond occurring during
22 any taxable year, there shall be allowed as a credit against
23 the tax imposed by this chapter for the taxable year an
24 amount equal to the sum of the credits determined under
25 subsection (b) with respect to such dates.

1 “(b) AMOUNT OF CREDIT.—

2 “(1) IN GENERAL.—The amount of the credit
3 determined under this subsection with respect to any
4 credit allowance date for a qualified high-speed rail
5 infrastructure bond is 25 percent of the annual cred-
6 it determined with respect to such bond.

7 “(2) ANNUAL CREDIT.—The annual credit de-
8 termined with respect to any qualified high-speed
9 rail infrastructure bond is the product of—

10 “(A) the credit rate determined by the Sec-
11 retary under paragraph (3) for the day on
12 which such bond was sold, multiplied by

13 “(B) the outstanding face amount of the
14 bond.

15 “(3) DETERMINATION.—For purposes of para-
16 graph (2), with respect to any qualified high-speed
17 rail infrastructure bond, the Secretary shall deter-
18 mine daily or cause to be determined daily a credit
19 rate which shall apply to the first day on which
20 there is a binding, written contract for the sale or
21 exchange of the bond. The credit rate for any day
22 is the credit rate which the Secretary or the Sec-
23 retary’s designee estimates will permit the issuance
24 of qualified high-speed rail infrastructure bonds with
25 a specified maturity or redemption date without dis-

1 count and without interest cost to the qualified
2 issuer.

3 “(4) CREDIT ALLOWANCE DATE.—For purposes
4 of this section, the term ‘credit allowance date’
5 means—

6 “(A) March 15,

7 “(B) June 15,

8 “(C) September 15, and

9 “(D) December 15.

10 Such term includes the last day on which the bond
11 is outstanding.

12 “(5) SPECIAL RULE FOR ISSUANCE AND RE-
13 DEMPTION.—In the case of a bond which is issued
14 during the 3-month period ending on a credit allow-
15 ance date, the amount of the credit determined
16 under this subsection with respect to such credit al-
17 lowance date shall be a ratable portion of the credit
18 otherwise determined based on the portion of the 3-
19 month period during which the bond is outstanding.
20 A similar rule shall apply when the bond is re-
21 deemed.

22 “(c) LIMITATION BASED ON AMOUNT OF TAX.—

23 “(1) IN GENERAL.—The credit allowed under
24 subsection (a) for any taxable year shall not exceed
25 the excess of—

1 “(A) the sum of the regular tax liability
2 (as defined in section 26(b)) plus the tax im-
3 posed by section 55, over

4 “(B) the sum of the credits allowable
5 under this part (other than subpart C, sections
6 1400N(l) and 54, and this section).

7 “(2) CARRYOVER OF UNUSED CREDIT.—If the
8 credit allowable under subsection (a) exceeds the
9 limitation imposed by paragraph (1) for such taxable
10 year, such excess shall be carried to the succeeding
11 taxable year and added to the credit allowable under
12 subsection (a) for such taxable year.

13 “(d) CREDIT INCLUDED IN GROSS INCOME.—Gross
14 income includes the amount of the credit allowed to the
15 taxpayer under this section (determined without regard to
16 subsection (c)) and the amount so included shall be treat-
17 ed as interest income.

18 “(e) QUALIFIED HIGH-SPEED RAIL INFRASTRUC-
19 TURE BOND.—For purposes of this part, the term ‘quali-
20 fied high-speed rail infrastructure bond’ means any bond
21 issued as part of an issue if—

22 “(1) the issuer certifies that the Secretary of
23 Transportation has designated the bond for purposes
24 of this section under section 26106(a) of title 49,

1 United States Code, as in effect on the date of the
2 enactment of this section,

3 “(2) 95 percent or more of the proceeds from
4 the sale of such issue are to be used for expenditures
5 incurred after the date of the enactment of this sec-
6 tion for any project described in section 26106(a)(2)
7 of title 49, United States Code,

8 “(3) the term of each bond which is part of
9 such issue does not exceed 20 years,

10 “(4) the payment of principal with respect to
11 such bond is the obligation solely of the issuer, and

12 “(5) the issue meets the requirements of sub-
13 section (f) (relating to arbitrage).

14 “(f) SPECIAL RULES RELATING TO ARBITRAGE.—

15 “(1) IN GENERAL.—Subject to paragraph (2),
16 an issue shall be treated as meeting the require-
17 ments of this subsection if as of the date of
18 issuance, the issuer reasonably expects—

19 “(A) to spend at least 95 percent of the
20 proceeds from the sale of the issue for 1 or
21 more qualified projects within the 3-year period
22 beginning on such date,

23 “(B) to incur a binding commitment with
24 a third party to spend at least 10 percent of the
25 proceeds from the sale of the issue, or to com-

1 mence construction, with respect to such
2 projects within the 6-month period beginning on
3 such date, and

4 “(C) to proceed with due diligence to com-
5 plete such projects and to spend the proceeds
6 from the sale of the issue.

7 “(2) RULES REGARDING CONTINUING COMPLI-
8 ANCE AFTER 3-YEAR DETERMINATION.—If at least
9 95 percent of the proceeds from the sale of the issue
10 is not expended for 1 or more qualified projects
11 within the 3-year period beginning on the date of
12 issuance, but the requirements of paragraph (1) are
13 otherwise met, an issue shall be treated as con-
14 tinuing to meet the requirements of this subsection
15 if either—

16 “(A) the issuer uses all unspent proceeds
17 from the sale of the issue to redeem bonds of
18 the issue within 90 days after the end of such
19 3-year period, or

20 “(B) the following requirements are met:

21 “(i) The issuer spends at least 75 per-
22 cent of the proceeds from the sale of the
23 issue for 1 or more qualified projects with-
24 in the 3-year period beginning on the date
25 of issuance.

1 “(ii) Either—

2 “(I) the issuer spends at least 95
3 percent of the proceeds from the sale
4 of the issue for 1 or more qualified
5 projects within the 4-year period be-
6 ginning on the date of issuance, or

7 “(II) the issuer pays to the Fed-
8 eral Government any earnings on the
9 proceeds from the sale of the issue
10 that accrue after the end of the 3-year
11 period beginning on the date of
12 issuance and uses all unspent pro-
13 ceeds from the sale of the issue to re-
14 deem bonds of the issue within 90
15 days after the end of the 4-year pe-
16 riod beginning on the date of
17 issuance.

18 “(g) RECAPTURE OF PORTION OF CREDIT WHERE
19 CESSATION OF COMPLIANCE.—

20 “(1) IN GENERAL.—If any bond which when
21 issued purported to be a qualified high-speed rail in-
22 frastructure bond ceases to be such a qualified bond,
23 the issuer shall pay to the United States (at the
24 time required by the Secretary) an amount equal to
25 the sum of—

1 “(A) the aggregate of the credits allowable
2 under this section with respect to such bond
3 (determined without regard to subsection (c))
4 for taxable years ending during the calendar
5 year in which such cessation occurs and the 2
6 preceding calendar years, and

7 “(B) interest at the underpayment rate
8 under section 6621 on the amount determined
9 under subparagraph (A) for each calendar year
10 for the period beginning on the first day of
11 such calendar year.

12 “(2) FAILURE TO PAY.—If the issuer fails to
13 timely pay the amount required by paragraph (1)
14 with respect to such bond, the tax imposed by this
15 chapter on each holder of any such bond which is
16 part of such issue shall be increased (for the taxable
17 year of the holder in which such cessation occurs) by
18 the aggregate decrease in the credits allowed under
19 this section to such holder for taxable years begin-
20 ning in such 3 calendar years which would have re-
21 sulted solely from denying any credit under this sec-
22 tion with respect to such issue for such taxable
23 years.

24 “(3) SPECIAL RULES.—

1 “(A) TAX BENEFIT RULE.—The tax for
2 the taxable year shall be increased under para-
3 graph (2) only with respect to credits allowed
4 by reason of this section which were used to re-
5 duce tax liability. In the case of credits not so
6 used to reduce tax liability, the carryforwards
7 under subsection (c) shall be appropriately ad-
8 justed.

9 “(B) NO CREDITS AGAINST TAX.—Any in-
10 crease in tax under paragraph (2) shall not be
11 treated as a tax imposed by this chapter for
12 purposes of determining—

13 “(i) the amount of any credit allow-
14 able under this part, or

15 “(ii) the amount of the tax imposed
16 by section 55.

17 “(h) OTHER DEFINITIONS AND SPECIAL RULES.—
18 For purposes of this section—

19 “(1) BOND.—The term ‘bond’ includes any ob-
20 ligation.

21 “(2) QUALIFIED PROJECT.—The term ‘qualified
22 project’ means any project described in section
23 26106(a)(2) of title 49, United States Code.

24 “(3) TREATMENT OF CHANGES IN USE.—For
25 purposes of subsection (e)(2), the proceeds from the

1 sale of an issue shall not be treated as used for a
2 qualified project to the extent that the issuer takes
3 any action within its control which causes such pro-
4 ceeds not to be used for a qualified project. The Sec-
5 retary shall prescribe regulations specifying remedial
6 actions that may be taken (including conditions to
7 taking such remedial actions) to prevent an action
8 described in the preceding sentence from causing a
9 bond to fail to be a qualified high-speed rail infra-
10 structure bond.

11 “(4) PARTNERSHIP; S CORPORATION; AND
12 OTHER PASS-THRU ENTITIES.—Under regulations
13 prescribed by the Secretary, in the case of a partner-
14 ship, trust, S corporation, or other pass-thru entity,
15 rules similar to the rules of section 41(g) shall apply
16 with respect to the credit allowable under subsection
17 (a).

18 “(5) BONDS HELD BY REGULATED INVEST-
19 MENT COMPANIES.—If any qualified high-speed rail
20 infrastructure bond is held by a regulated invest-
21 ment company, the credit determined under sub-
22 section (a) shall be allowed to shareholders of such
23 company under procedures prescribed by the Sec-
24 retary.

1 “(6) REPORTING.—Issuers of qualified high-
2 speed rail infrastructure bonds shall submit reports
3 similar to the reports required under section
4 149(e).”.

5 (b) REPORTING.—

6 (1) IN GENERAL.—Subparagraph (A) of section
7 6049(d)(8) of the Internal Revenue Code of 1986 is
8 amended—

9 (A) by inserting “, 54A(d),” after “54(g)”,
10 and

11 (B) by inserting “, 54A(b)(4),” after
12 “54(b)(4)”.

13 (2) CONFORMING AMENDMENT.—The heading
14 of section 6049(d)(8) of such Code is amended by
15 striking “CLEAN RENEWABLE ENERGY BONDS” and
16 inserting “CERTAIN TAX CREDIT BONDS”.

17 (c) CLERICAL AMENDMENT.—The table of subparts
18 for subpart H of part IV of subchapter A of chapter 1
19 of such Code is amended by adding at the end the fol-
20 lowing new item:

 “Sec. 54A. Credit to holders of qualified high-speed rail infrastructure bonds.”.

21 (d) ISSUANCE OF REGULATIONS.—Not later than 6
22 months after the date of the enactment of this section,
23 the Secretary of the Treasury shall issue regulations for
24 carrying out this section and the amendments made by
25 this section.

1 (e) HIGH-SPEED INTERCITY RAIL FACILITIES.—

2 (1) REQUIREMENT TO MEET TITLE 49 RE-
3 QUIREMENTS.—Section 142(i) of the Internal Rev-
4 enue Code of 1986 is amended by adding at the end
5 the following new paragraph:

6 “(4) ADDITIONAL REQUIREMENTS.—A bond
7 issued as part of an issue described in subsection
8 (a)(11) shall not be considered an exempt facility
9 bond unless the requirements of paragraphs (1)
10 through (6) of section 26106(a) of title 49, United
11 States Code, are met.”.

12 (2) REVISION OF SPEED REQUIREMENT.—Sec-
13 tion 142(i)(1) of such Code is amended by striking
14 “150 miles per hour” and inserting “110 miles per
15 hour”.

16 (f) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to obligations issued after the date
18 of the enactment of this Act.

19 **Subtitle D—Energy Supply and**
20 **Freight Rail**

21 **SEC. 531. SHORT TITLE.**

22 This subtitle may be cited as the “Railroad Track
23 Modernization Act of 2007”.

1 **SEC. 532. CAPITAL GRANTS FOR RAILROAD TRACK.**

2 (a) AMENDMENT.—Chapter 223 of title 49, United
3 States Code, is amended to read as follows:

4 **“CHAPTER 223—CAPITAL GRANTS FOR**
5 **RAILROAD TRACK**

“Sec.

“22301. Capital grants for railroad track.

6 **“§ 22301. Capital grants for railroad track**

7 “(a) ESTABLISHMENT OF PROGRAM.—

8 “(1) ESTABLISHMENT.—The Secretary of
9 Transportation shall establish a program of capital
10 grants for the rehabilitation, preservation, or im-
11 provement of railroad track (including roadbed,
12 bridges, and related track structures) of class II and
13 class III railroads. Such grants shall be for rehabili-
14 tating, preserving, or improving track used primarily
15 for freight transportation to a standard ensuring
16 that the track can be operated safely and efficiently,
17 including grants for rehabilitating, preserving, or im-
18 proving track to handle 286,000 pound rail cars.
19 Grants may be provided under this chapter—

20 “(A) directly to the class II or class III
21 railroad; or

22 “(B) with the concurrence of the class II
23 or class III railroad, to a State or local govern-
24 ment.

1 “(2) STATE COOPERATION.—Class II and class
2 III railroad applicants for a grant under this chap-
3 ter are encouraged to utilize the expertise and assist-
4 ance of State transportation agencies in applying for
5 and administering such grants. State transportation
6 agencies are encouraged to provide such expertise
7 and assistance to such railroads.

8 “(3) INTERIM REGULATIONS.—Not later than
9 December 31, 2007, the Secretary shall issue tem-
10 porary regulations to implement the program under
11 this section. Subchapter II of chapter 5 of title 5
12 does not apply to a temporary regulation issued
13 under this paragraph or to an amendment to such
14 a temporary regulation.

15 “(4) FINAL REGULATIONS.—Not later than Oc-
16 tober 1, 2008, the Secretary shall issue final regula-
17 tions to implement the program under this section.

18 “(b) MAXIMUM FEDERAL SHARE.—The maximum
19 Federal share for carrying out a project under this section
20 shall be 80 percent of the project cost. The non-Federal
21 share may be provided by any non-Federal source in cash,
22 equipment, or supplies. Other in-kind contributions may
23 be approved by the Secretary on a case by case basis con-
24 sistent with this chapter.

1 “(c) PROJECT ELIGIBILITY.—For a project to be eli-
2 gible for assistance under this section the track must have
3 been operated or owned by a class II or class III railroad
4 as of the date of the enactment of the Railroad Track
5 Modernization Act of 2007.

6 “(d) USE OF FUNDS.—Grants provided under this
7 section shall be used to implement track capital projects
8 as soon as possible. In no event shall grant funds be con-
9 tractually obligated for a project later than the end of the
10 third Federal fiscal year following the year in which the
11 grant was awarded. Any funds not so obligated by the end
12 of such fiscal year shall be returned to the Secretary for
13 reallocation.

14 “(e) ADDITIONAL PURPOSE.—In addition to making
15 grants for projects as provided in subsection (a), the Sec-
16 retary may also make grants to supplement direct loans
17 or loan guarantees made under title V of the Railroad Re-
18 vitalization and Regulatory Reform Act of 1976 (45
19 U.S.C. 822(d)), for projects described in the last sentence
20 of section 502(d) of such title. Grants made under this
21 subsection may be used, in whole or in part, for paying
22 credit risk premiums, lowering rates of interest, or pro-
23 viding for a holiday on principal payments.

24 “(f) EMPLOYEE PROTECTION.—The Secretary shall
25 require as a condition of any grant made under this sec-

tion that the recipient railroad provide a fair arrangement at least as protective of the interests of employees who are affected by the project to be funded with the grant as the terms imposed under section 11326(a), as in effect on the date of the enactment of the Railroad Track Modernization Act of 2007.

“(g) LABOR STANDARDS.—

“(1) PREVAILING WAGES.—The Secretary shall ensure that laborers and mechanics employed by contractors and subcontractors in construction work financed by a grant made under this section will be paid wages not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.). The Secretary shall make a grant under this section only after being assured that required labor standards will be maintained on the construction work.

“(2) WAGE RATES.—Wage rates in a collective bargaining agreement negotiated under the Railway Labor Act (45 U.S.C. 151 et seq.) are deemed for purposes of this subsection to comply with the Act of March 3, 1931 (known as the Davis-Bacon Act; 40 U.S.C. 276a et seq.).

1 “(h) STUDY.—The Secretary shall conduct a study
2 of the projects carried out with grant assistance under this
3 section to determine the public interest benefits associated
4 with the light density railroad networks in the States and
5 their contribution to a multimodal transportation system.
6 Not later than March 31, 2009, the Secretary shall report
7 to Congress any recommendations the Secretary considers
8 appropriate regarding the eligibility of light density rail
9 networks for Federal infrastructure financing.

10 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Secretary of
12 Transportation \$350,000,000 for each of the fiscal years
13 2008 through 2010 for carrying out this section.”.

14 (b) CONFORMING AMENDMENT.—The item relating
15 to chapter 223 in the table of chapters of subtitle V of
16 title 49, United States Code, is amended to read as fol-
17 lows:

“223. CAPITAL GRANTS FOR RAILROAD TRACK 22301”.

18 **Subtitle E—Rail Reliability**

19 **SEC. 541. RELIABILITY OF RAILROAD TRANSPORTATION OF** 20 **ENERGY SUPPLIES.**

21 (a) FINDING.—The Congress finds that the Nation’s
22 rail system is a critical part of national security, and that
23 the Surface Transportation Board has the obligation and
24 authority to ensure that the Nation’s rail infrastructure
25 is adequate to enable safe, efficient, and reliable delivery

1 of passengers, energy supplies, and other goods and serv-
2 ices, and that the Nation's rail carriers meet their common
3 carrier obligations to deliver products and maintain infra-
4 structure at a level which provides for the safe, efficient,
5 and reliable delivery of passengers, energy supplies, and
6 other goods and services.

7 (b) RELIABILITY REQUIREMENTS.—Not later than
8 180 days after the date of enactment of this Act, the Sur-
9 face Transportation Board, after consultation with the
10 Secretary of Transportation, the Secretary of Energy, the
11 Secretary of Commerce, the Secretary of Agriculture, the
12 Secretary of Defense, and the Chairman of the Federal
13 Energy Regulatory Commission, shall issue regulations re-
14 quiring implementation of the reliability standards ap-
15 proved under this section.

16 (c) DEFINITION.—For purposes of this section, the
17 term “reliability standard” means a requirement, ap-
18 proved by the Surface Transportation Board under this
19 section, to provide for reliable and timely operation of rail-
20 road transportation of passengers, energy supplies, and
21 other goods and services. The term shall include a require-
22 ment for operation and maintenance of the railroad sys-
23 tem as well as for efficient transfer of freight cars and
24 train sets between different railroads.

1 (d) ADVISORY PANEL.—Not later than 90 days after
2 the date of enactment of this Act, the Surface Transpor-
3 tation Board shall establish an advisory panel, consisting
4 of representatives of the rail carrier industry, energy sup-
5 ply companies, and industrial and individual consumers of
6 energy and rail transportation services. Such advisory
7 panel shall ensure its independence of the users, owners,
8 and operators of the railroad system while ensuring fair
9 stakeholder representation in the selection of its directors,
10 ensure balanced decisionmaking in any committee or orga-
11 nizational structure, and provide for reasonable notice and
12 opportunity for public comment, due process, openness,
13 and balance of interests in developing reliability standards
14 and otherwise exercising its duties. Such advisory panel
15 shall, after obtaining all relevant stakeholder comments,
16 make recommendations for the establishment of standards
17 for rail operations to ensure the timely and efficient trans-
18 portation of fuels and energy feedstocks, especially during
19 times of energy or fuel supply emergencies. The first such
20 recommendations shall be transmitted to the Surface
21 Transportation Board not later than 270 days after the
22 date of enactment of this Act. These recommendations
23 may include suggestions for expanded rail infrastructure
24 to expand, connect new, or bolster existing points within
25 the current rail line network.

1 (e) SURFACE TRANSPORTATION BOARD AP-
2 PROVAL.—

3 (1) IN GENERAL.—The Surface Transportation
4 Board may approve, by rule or order, a proposed re-
5 liability standard or modification to a reliability
6 standard if it determines that the standard is just,
7 reasonable, not unduly discriminatory or pref-
8 erential, and in the public interest. The Surface
9 Transportation Board shall use the recommenda-
10 tions developed by the advisory panel under sub-
11 section (d) with respect to the content of a proposed
12 standard or modification to a reliability standard. A
13 proposed standard or modification shall take effect
14 upon approval by the Surface Transportation Board.
15 The Surface Transportation Board shall approve or
16 disapprove the first recommended standards trans-
17 mitted by the advisory panel not later than 1 year
18 after receiving such transmittal.

19 (2) REMAND.—The Surface Transportation
20 Board shall remand to the advisory panel for further
21 consideration a proposed reliability standard or a
22 modification to a reliability standard that the Sur-
23 face Transportation Board disapproves in whole or
24 in part.

1 (3) SURFACE TRANSPORTATION BOARD INITI-
2 ATED STANDARDS.—The Surface Transportation
3 Board, upon its own motion or upon complaint, may
4 request the advisory panel to submit to the Surface
5 Transportation Board a recommendation for a pro-
6 posed reliability standard or modification to a reli-
7 ability standard that addresses a specific matter if
8 the Surface Transportation Board considers such a
9 new or modified reliability standard appropriate to
10 carry out this section. If the advisory panel fails to
11 submit a proposed or modified standard within 1
12 year after such a request from the Surface Trans-
13 portation Board, the Board may implement its own
14 standard to carry out this section.

15 (4) CONFLICT.—A final rule adopted under this
16 section shall include fair processes for the identifica-
17 tion and timely resolution of any conflict between a
18 reliability standard and any function, rule, order,
19 tariff, rate schedule, or agreement accepted, ap-
20 proved, or ordered by the Surface Transportation
21 Board applicable to a rail carrier. Such rail carrier
22 shall continue to comply with such function, rule,
23 order, tariff, rate schedule, or agreement accepted
24 approved, or ordered by the Surface Transportation
25 Board until—

1 (A) the Surface Transportation Board
2 finds a conflict exists between a reliability
3 standard and any such provision;

4 (B) the Surface Transportation Board or-
5 ders a change to such provision; and

6 (C) the ordered change becomes effective.

7 If the Surface Transportation Board determines
8 that a reliability standard needs to be changed as a
9 result of such a conflict, it shall order the advisory
10 panel to develop and recommend to the Surface
11 Transportation Board a modified reliability stand-
12 ard.

13 (5) PENALTIES.—On its own motion or upon
14 complaint, the Surface Transportation Board may
15 order compliance with a reliability standard and may
16 impose a penalty against a rail carrier or other enti-
17 ty if the Surface Transportation Board finds, after
18 notice and opportunity for a hearing, that the rail
19 carrier or other entity has engaged or is about to en-
20 gage in any acts or practices that constitute or will
21 constitute a violation of a reliability standard.